

STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
PUBLIC HEARING

RE: )  
RED TAPE REVIEW ) TRANSCRIPT OF  
GROUP MEETING. ) PROCEEDINGS:  
----- )  
Montclair University  
Valley Road and Normal  
Avenue-Conference Center  
Montclair, New Jersey  
3:10 p.m.  
March 23, 2010

B E F O R E:

KIM GUADAGNO, LI EUTENANT GOVERNOR  
BOB MARTIN, COMMISSIONER, DEP  
LORI GRIFA, COMMISSIONER, DCA  
BARBARA BUONO, SENATE MAJORITY LEADER  
STEVEN OROHO, SENATOR  
SCOTT RUMANA, ASSEMBLYMAN  
JOHN BURZICHELLI, ASSEMBLYMAN

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LI EUTENANT GOVERNOR GUADAGNO:

2 Okay. Everything we say is being taken down by a  
3 reporter over here. As the members of the  
4 panel -- hi. Lori is the speaker -- no. John is  
5 the speaker.

6 On January 19th and the 20th the  
7 Governor signed four Executive Orders. The first  
8 one was an Executive Order freezing all rules and  
9 regulations in New Jersey that were pending at the  
10 time. 800 pages of rules and regulations were  
11 pending at the time the Governor was sworn in.  
12 After Executive Order No. 1 was signed, Executive  
13 Order No. 2 required the agencies to present only  
14 rules and regulations that had to comply with  
15 common sense principles of rule-making. Executive  
16 Order No. 3 provided for the creation of something  
17 called a Red Tape Review Group. It's a bipartisan  
18 group that is required within 90 days to report  
19 back to the Governor about whether or not those  
20 800 pages of rules and regulations that were  
21 pending at the time he was sworn in complied with  
22 the common sense principles of rule-making that  
23 the Governor had signed into an Executive Order.  
24 That would be Executive Order No. 2. Finally,  
25 Executive Order No. 4 said that you should not any

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1 longer as an executive agency -- for those of you  
2 in the room who don't know that, that would be  
3 like the DEP, the DCA and the DOT, you should no

4 longer pass rules and regulations that amount to  
 5 unfunded state mandates, so what the panel before  
 6 you right now is, it's an outcome of Executive  
 7 Order No. 3, establishing the Red Tape Review  
 8 Group. The idea is really quite simple; that New  
 9 Jersey is a tough place to do business, and if we  
 10 go through our rules and regulations, the 800  
 11 pending and then looking at the 25,000 pages that  
 12 already exist, maybe we can make New Jersey a  
 13 little bit easier to do business in, maybe we can  
 14 bring businesses back to New Jersey, if we open  
 15 our doors to them, and make New Jersey State  
 16 Government business friendly again.

17 So, sitting at this panel right now  
 18 are two Republicans and two Democrats, and two of  
 19 them are infamous State Agencies. What we're  
 20 going to do now is take testimony from the public.

21 First let me start by introducing  
 22 to you, I believe someone here to watch and make  
 23 sure we're accomplishing our goal, and we're lucky  
 24 to have her with us, the Speaker of the State  
 25 Assembly. She is the first African/American

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1 female Assembly Speaker in the history of the  
 2 State of New Jersey, a former Board of Education  
 3 Member, a former Freeholder, a current County  
 4 Administrator and our own Speaker, Sheila Oliver.  
 5 She's come to say a few words.

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Thank you, Speaker.

MS. OLIVER: Thank you, and good  
afternoon, everyone.

First of all, I would like to thank  
Lieutenant Governor Guadagno for extending an  
invitation for me to come this afternoon. I also  
would like to thank the members that have been  
working with the Lieutenant Governor on the Red  
Tape Review for the very energetic and  
enthusiastic work that they've been performing.  
They have hit the ground running.

I spent my morning down at the  
corporate headquarters of PSE&G and I had the  
opportunity to spend time with the CEO and the  
Chairman and many of the executives of that  
company. I indicated to them that there is  
nothing more important to me, as Speaker of the  
General Assembly, there is nothing more important  
to the Senate President and there is nothing more  
important to the Governor right now than having

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the Legislature and the executive branch of  
government work more effectively with the private  
sector in this state, so we can untangle  
regulatory impediments that get in your way. We  
wish to grow and expand business in the state,  
create jobs and to create opportunity.

I want to thank all of you for

8 engaging in this process as well, and please know  
9 that there are listening ears in this State  
10 Legislature.

11 Thank you.

12 LI EUTENANT GOVERNOR GUADAGNO:

13 Before we get too much further, you've seen a  
14 group that's very beautiful and part of the reason  
15 it's as beautiful as it is is because it has  
16 leadership and it has the foresight and it has the  
17 strength and the courage to make the right  
18 decisions for the right reasons.

19 Please let me turn the table over  
20 now to the President of the University of  
21 Montclair, and that is Susan Cole.

22 Thank you, Dr. Cole.

23 DR. COLE: Thank you, Lieutenant  
24 Governor.

25 It's really my pleasure to welcome

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1 the Lieutenant Governor and Legislators and  
2 Commissioners to Montclair State University, as  
3 well as all the members of the public. We are  
4 very happy to be able to host this event, and I'll  
5 just give you one historical note. About 27 years  
6 ago when I was Vice-President of Rutgers and just  
7 a pup, just a young pup, Governor Kean did  
8 something called the Governor's Improvement  
9 Management Program. It engaged the whole state in

10 trying to create more efficient government and it  
11 occupied a lot of my time during one particular  
12 year of my life. Since that time a few efforts  
13 have been made but I really think that this year  
14 is a historic moment for the State of New Jersey.  
15 This is a massive effort being lead by the  
16 Lieutenant Governor in order to really look at how  
17 New Jersey manages its enterprises. I know many  
18 of you are engaged in businesses and organizations  
19 of various kinds, we are trying to run a pretty  
20 large organization here, too, and the State of New  
21 Jersey has really created some obstacles for  
22 itself in order to get from point A to point B,  
23 but this effort I think is going to have an  
24 enormous impact on improving the quality of life  
25 and the, just the ability to get things done in

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1 the state, so I congratulate the Governor and the  
2 Lieutenant Governor and all of the Legislators who  
3 have given their efforts and to all the  
4 Commissioners who give their efforts to it, and  
5 with that, let's get on with the business.

6 Thank you.

7 LIEUTENANT GOVERNOR GUADAGNO:

8 Thank you, very much, Doctor. I appreciate it.

9 Now, as is our tradition, our  
10 tradition is to open the floor to one Republican  
11 and one Democrat, so I look to my Democrats.

12 Okay. Assemblyman Burzichelli, if you would do  
 13 the honors of introducing members of --  
 14 ASSEMBLYMAN BURZICHELLI: Thank  
 15 you, Lieutenant Governor. It's good to be back  
 16 here with you in our third meeting. I think there  
 17 was a great accomplishment in the first two  
 18 meetings, education for all of us, so we can move  
 19 forward and be very effective. I'm very pleased  
 20 at being, being the speaker, about being here with  
 21 the Senate President, and also being the Democrat  
 22 colleague on the Committee, with our Senate  
 23 Majority Leader Barbara Buono, we are pleased to  
 24 be here for testimony today, so let's get  
 25 working.

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1 LI EUTENANT GOVERNOR GUADAGNO:  
 2 Thank you.  
 3 Senator Oroho.  
 4 SENATOR OROHO: Yes, Lieutenant  
 5 Governor, thank you, very much, on behalf of my  
 6 colleague, Assemblyman Scott Rumana, and the rest  
 7 of our colleagues. I want to thank each of the  
 8 Members of this Committee for all of their hard  
 9 work. I want to thank the Montclair State  
 10 University speaker for being here. I just -- and  
 11 actually, Senator Boyle. I just came from the  
 12 first Public Hearing on the Senate side for the  
 13 budget and it is extrem -- that's right, we had to

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14 I leave that one early, but it is -- obviously with  
15 the economic situation in the state today we know  
16 it's critical that we have mandate relief,  
17 regulatory relief and the issue of bringing  
18 private sector employment back vigorously to New  
19 Jersey, and I'm very proud to be part of this,  
20 this group and I think you guys are doing a great  
21 job.

22 Thank you.

23 LI EUTENANT GOVERNOR GUADAGNO: Now,  
24 I'm very proud to announce that yesterday the  
25 Senate approved the nomination and appointment of

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1 Bob Martin to be the head of the DEP.

2 Bob, do you have anything you'd  
3 like to say?

4 COMMISSIONER MARTIN: No. Just  
5 thank you, very much, and I'm glad to be here.

6 LI EUTENANT GOVERNOR GUADAGNO:  
7 Good. Good.

8 Okay. On the far left is the  
9 Commissioner Designate for the DCA, Lori Grifa.  
10 Would you like to add anything?

11 COMMISSIONER GRI FA: Good  
12 afternoon, and thank you for having us. I'm  
13 particularly pleased to be here since I'm a  
14 Montclair resident and only have 1.1 miles to  
15 drive at the conclusion of these proceedings to



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16 get home tonight. It's a special treat.

17 In all seriousness, this is an  
18 important function. It has been a great learning  
19 experience I think for all of us and we look  
20 forward to hearing your remarks, your anecdotes,  
21 your war stories and any information you can  
22 provide to us and to the Governor.

23 LI EUTENANT GOVERNOR GUADAGNO: Now,  
24 ladies and gentlemen, the idea here is not to  
25 listen to us talk. We do enough of that in

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1 Trenton. The idea here is to listen to you and to  
2 bring all the parties together in a bipartisan way  
3 so we can do something about whatever your  
4 comments are. We have asked and invited certain  
5 people we know have something to say to speak  
6 first, kind of to kick us off. We will give them  
7 each five minutes, invite them up to this desk  
8 right here, which is very far away from everyone,  
9 and you'll last five minutes. The panel will then  
10 ask questions of them for five minutes. We will  
11 get through the invited guests first and after  
12 that we'll take a little break and then open it up  
13 to the public for anything the public would like  
14 to add. I ask you to keep it to five minutes. We  
15 will have a timer way over there. Wow, that's  
16 nice. Let's see how that works.

17 COMMISSIONER GRIFFA: Oh, my.

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COMMISSIONER MARTIN: It's a score

board.

LIEUTENANT GOVERNOR GUADAGNO:

Welcome to Montclair. Well, so I think when you see the five minutes we will ask you to kind of wind it down. That is the biggest sign I have ever seen.

We're going to start off today, I

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I understand the first one on our list was David Brogan, but he's still in traffic so we're going to ask Conor Fennessy, front and center, if he would. You're from the New Jersey Apartment Association, I thank you for being here today.

MR. FENNESSY: Thank you. I think they took that down off the score board.

Lieutenant Governor, thank you, very much. We appreciate the opportunity to be here today. Also, Majority Leader and Commissioners, thank you. My name is Conor Fennessy and I'm the Vice-President of Government Affairs of the New Jersey Apartment Association. We represent the larger professional management firms across the state. All we do is own and manage rental housing. Approximately a third of the state actually resides in rental housing. For our working families, there are a million renters in New Jersey. Half of those fall under the

20 Department of Community Affairs' jurisdiction, and  
21 under the act, half are properties with three  
22 units and the other half are one to two unit  
23 properties. Our members tend to be in smaller  
24 units. There are 250,000 professionally managed  
25 properties where we have to have an on-site staff,

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1 and again, we do look forward to this  
2 jurisdiction. We did submit a memo last night to  
3 the Commission. I hope all members have it.  
4 There are nine points but we're only going to talk  
5 about three today. We don't want to take all your  
6 time. Nick is going to address the first two on  
7 the list and I'm going to talk about the third,  
8 and then we'll be happy to address any questions  
9 you may have. Again, we really appreciate the  
10 opportunity.

LI EUTENANT GOVERNOR GUADAGNO:

12 Thank you.

13 MR. KIKIS: Hi. My name is Nick  
14 Kikis with the Apartment Association. We wanted  
15 to address a few issues with you and, you know,  
16 what we come from is the multi-family apartment,  
17 you know, side and regulations have a very  
18 significant impact on the multi-family housing  
19 business. The New Jersey Apartment Association is  
20 regulated under the Hotel & Multiple Dwelling Act  
21 regulations and these regulations have with it an

22 apartment inspection, and right now statutorily  
23 the Bureau of Housing Inspection is required to  
24 inspect 20 percent of all apartment units in New  
25 Jersey every five years. Right now they're

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1 inspecting each and every unit each and every time  
2 they come out, which is once every five years.  
3 Now, apartments are very heavily inspected  
4 already. They could fall under the -- and most  
5 municipalities also have inspections of the  
6 communities, so this is one additional state  
7 inspection that we have, and it's a very serious  
8 and very significant inspection, and we feel that  
9 one way that regulatory relief could be provided  
10 is by inspecting a sample, by looking at 20  
11 percent of the units in a community and then if  
12 there are problems, then extend the inspection to  
13 100 percent, but if the community looks like it's  
14 in substantial compliance with the regulations,  
15 then we don't.

16 Secondly, I'd like to address a few  
17 regulations that exist that have been in the books  
18 for quite some time and we feel that they  
19 currently don't meet a policy purpose. The first  
20 is a Labor and Work Force Development rule that  
21 requires apartment boilers be continuously  
22 monitored and logged hourly, so every hour a  
23 maintenance technician is required to take a

24 reading from the boiler in an apartment community  
25 and register that into a log book. It requires,

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1 technically speaking, 24 hour staff that are  
2 there, you know, in the middle of the night, ready  
3 to take boiler readings, as well as having black  
4 sealed license boiler operator on-site on a 24/7  
5 basis. These types of regulations --

6 LIUTENANT GOVERNOR GUADAGNO: What  
7 does that cost you?

8 MR. KIKIS: The cost is -- I  
9 wouldn't necessarily say that it's -- you know,  
10 it's difficult to quantify. Typically what  
11 happens, an apartment will hire a maintenance  
12 person and then send that person to be licensed.  
13 So it's difficult to quantify the cost, but in  
14 terms of hiring, in terms of trying to get the  
15 maintenance guys up and running, it's a  
16 significant obstacle.

17 The second is a rule out of the  
18 Division of Civil Rights called Multiple Dwelling  
19 Reporting Rule. What this requires is that  
20 apartment owners maintain a log of the  
21 demographics of all of the residents who have  
22 rented their units or have applied to live in  
23 them, and that's required to be submitted to the  
24 Division once a year, by the end of January. Now,  
25 the Division doesn't do anything with this

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1 information, so we're required to collect and  
2 supply very private information that is ultimately  
3 never really used in any meaningful way. That was  
4 one item we wanted to present to you.

5 The final item, I think in terms of  
6 the impact on our residents and that would have a  
7 significant impact is the pool regulation. Right  
8 now apartment communities are regulated as if they  
9 were a public swim club. Unlike hotels,  
10 condominiums and other, you know, types of  
11 properties, they're required to have Certified  
12 Pool Operators on-site 24 hours, as well as  
13 lifeguards, you know, regardless of how many  
14 people are swimming and that is an obstacle, you  
15 know, to having pools in a lot of apartment  
16 communities.

17 With that, I'll turn it over to  
18 Conor.

19 MR. FENNESSY: The last issue we  
20 wanted to address today was actually a Board of  
21 Public Utilities issue with regard to water  
22 conservation. Currently, in 49 other states,  
23 except for here in New Jersey, at the larger  
24 apartment complexes where there's only one master  
25 meter that's been installed to read water for the

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1 entire property, we would like to install small  
 2 meters in each unit so that we can measure  
 3 consumptions and bill the residents for what they  
 4 use. In New Jersey you can do condominiums, you  
 5 can do co-ops, but you're not allowed to do it in  
 6 rental housing, but you are in 49 other states.  
 7 It's simply a board order prohibition. It dates  
 8 back to the 1970's when the technology was not  
 9 that great, honestly, with the meters, but the  
 10 meters today that are available to us are actually  
 11 utility grade meters, they're read wireless so  
 12 there's not that typical knock at the door asking  
 13 to read the meters, which you may see at home. It  
 14 allows us two things. We can only bill residents  
 15 based upon what they use, and actually, now we can  
 16 inform residents how much they use, because right  
 17 now we can't tell them because we can't measure it  
 18 by unit.

19 LI EUTENANT GOVERNOR GUADAGNO: Is  
 20 that in this -- let me see.

21 MS. FENNESSY: Yes, ma'am. It's  
 22 actually our third point.

23 LI EUTENANT GOVERNOR GUADAGNO: This  
 24 report dated March 23rd, 2009?

25 MR. FENNESSY: Yes. It's our third

1 point, bottom of page two.

2 LI EUTENANT GOVERNOR GUADAGNO: Yup,  
3 okay.

4 MR. FENNESSY: It's utilities  
5 sub-metering, and we can do it in 49 other states,  
6 you can do it in condos and co-ops, you know, you  
7 just can't do it in rental housing here.

8 LI EUTENANT GOVERNOR GUADAGNO:  
9 Great. Any questions?

10 COMMISSIONER MARTIN: Just a quick  
11 question. Can I suggest you guys come back with  
12 potentially some costs surrounding some of these  
13 items? I know you guys pretty well, I think you  
14 can do the math. A lot of this stuff would be  
15 good, it would be good to see some of those  
16 numbers so we can kind of quantify how big an  
17 impact it really is to the operators, the  
18 Department Officers.

19 MR. FENNESSY: Sure. Actually, on  
20 the sub-metering the EPA figures put it at -- if  
21 you're able to do just 10 percent of the  
22 apartments here in New Jersey, the savings were "a  
23 billion gallons".

24 COMMISSIONER MARTIN: Okay. That's  
25 kind of --

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1 MR. FENNESSY: We'd be happy to  
2 also put some other numbers up.



3                   LIEUTENANT GOVERNOR GUADAGNO: We'd  
4 like those kind of numbers. We'll take it back to  
5 the BPU and we'll look at those, too.

6                   COMMISSIONER GRIFA: Just, if I  
7 could, we've done this with electricity through  
8 the BPU and we did not have success, so if you're  
9 going to put together numbers for us, Mr.  
10 Fennessy, could you also make a distinction of any  
11 technology with regard to the water metering  
12 you're discussing? I agree with you. There's a  
13 bill, Senator Smith has a bill pending before the  
14 Legislature to require this and if there's a  
15 distinction in the technology, because we did not  
16 have good results with the PILOT program on the  
17 electrical sub-metering, we should also know that,  
18 too, because we did have a lot of problems. If  
19 it's a completely different technology, obviously  
20 we need to know that, and if it's not, we need to  
21 try to get technology upgrades. I think all of us  
22 are looking to live in a greener place.

23                   MR. FENNESSY: Sure.

24                   COMMISSIONER GRIFA: It's a  
25 completely reasonable idea. We just need to make

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1                   sure that it's being used in a way that's not  
2 unfair to tenants.

3                   MR. FENNESSY: The electrical  
4 side -- if I may, Governor, the PILOT project you

5 had through the HMFA up in, I believe in Jersey  
6 City --

7 COMMISSIONER GRIFA: Union City,  
8 actually.

9 MR. FENNESSY: -- was on the  
10 electrical side.

11 COMMISSIONER GRIFA: Yes.

12 MR. FENNESSY: One of the  
13 challenges with the electric, especially when it  
14 comes to heat, is when you have a high-rise  
15 building, the outside tends to heat the units on  
16 the inside. On the water side it's much cleaner  
17 because it's water in, water out.

18 LIEUTENANT GOVERNOR GUADAGNO: Let  
19 me interrupt you right there.

20 MR. FENNESSY: I'm sorry.

21 LIEUTENANT GOVERNOR GUADAGNO: Not  
22 because I'm not interested in water and  
23 electricity, but my question is -- and we're  
24 running out of time, but my question is -- first  
25 of all, I understand you'll agree to give that

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1 document and that information to Lori Grifa, the  
2 DCA Commissioner Designee, but my question is  
3 process wise, have you brought these -- assume for  
4 a moment we agree with you that some of these  
5 should be eliminated. Have you brought these  
6 rules to the attention of the respected agency,

7 and if so, how, when and what was the response? I  
8 mean, it's obvious they're still in, in fact, from  
9 what the response is, but looking at the process  
10 going forward, I'm sure we'll hear other examples  
11 of this kind of problem. We're looking at how we  
12 fix the system so we can eliminate these rules, if  
13 they are RK rules.

14 MR. FENNESSY: Sure.

15 LI EUTENANT GOVERNOR GUADAGNO: Have  
16 you?

17 MR. FENNESSY: We have. We  
18 actually did part of the state process with the  
19 BPU back in 2004, 2005 and out of that came the  
20 PILOT project with the HMFA and the DCA, but  
21 again, that was restricted to only gas and  
22 electric on the site, and also, only affordable  
23 subsidized housing. The water side is a little  
24 bit different --

25 COMMISSIONER GRIFFA: Sounds like

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1 it.

2 MR. FENNESSY: -- in just the way  
3 the water operates inside the building as opposed  
4 to the electric and the heating concern. The  
5 house heats the inside units.

6 COMMISSIONER GRIFFA: Looking  
7 forward to seeing it.

8 MR. FENNESSY: Thank you,  
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9       Commi ssi oner.  
10                   LI EUTENANT GOVERNOR GUADAGNO:  
11       Thank you, very much.  
12                   Doesn' t look l ike we have a process  
13       for review in our rules and regul ations. Anybody  
14       fam ili ar with one? Well, we' ll put it on the list  
15       of things to fix.  
16                   I wonder if David Brogan had a  
17       chance to come in yet. No, all right.  
18                   Robert Davison from the New Jersey  
19       Associ ation of Mental Heal th Agency.  
20                   MR. DAVI SON: Good afternoon.  
21                   LI EUTENANT GOVERNOR GUADAGNO: Hi .  
22                   MR. DAVI SON: Thanks for having  
23       me. My name is Bob Davison and I' m the Executive  
24       Director of the Mental Heal th Associ ation of Essex  
25       County. Today I' m representing the New Jersey

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1       Associ ation of Mental Heal th Agenci es. We serve  
2       over 450,000 New Jersey ci ti zens a year and we  
3       have approxi mately 30,000 empl oyees working both  
4       in mental heal th and in addi cti on servi ces. In an  
5       effort to be effici ent, I' m not going to read my  
6       testimony because I submi tted it.  
7                   LI EUTENANT GOVERNOR GUADAGNO: Just  
8       so I have it here, I have a document that' s  
9       entitled testimony presented to the Red Tape  
10       Revi ew Commi ttee and testimony presented by Robert

11 Davison, and it's on NJAMHA letterhead. Is that  
12 it?

13 MR. DAVISON: That's right.

14 LIEUTENANT GOVERNOR GUADAGNO:

15 Okay. Great.

16 MR. DAVISON: To be efficient, I  
17 won't read that, but I will, I will make a couple  
18 points.

19 Community mental health and  
20 addiction services are a highly regulated,  
21 licensed, monitored auditing system. To some  
22 extent, this makes sense because we work with  
23 normal citizens and we're heavily state-funded.  
24 We also certainly understand the state's  
25 responsibility to us. However, the state levels,

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1 the state levels of micro management and  
2 over-regulations are beyond reasonable. To be  
3 frank, at times it feels as if our goal is not to  
4 ensure quality services, but to act as a job  
5 protection program for state bureaucrats, and I'll  
6 give you an example. One of my colleagues, they  
7 were visited in seven weeks eight times, twice by  
8 the Department of Human Services, once by the  
9 Department of Children and Families, twice by  
10 Medicaid and once by DCA, and it doesn't add up to  
11 eight, but other agencies visited them as well.  
12 The problem is that each Department of the State

13 has their own contracting process, so if you're,  
14 if you're the community mental health agency and  
15 you provide children services, adult services and  
16 addiction services and senior services and you're  
17 developing housing with HMFA and each one of those  
18 entities has their own contracting process and  
19 their own licensing process, the administrative  
20 burden for both the state and for the providing  
21 agency is a mess and a waste of a lot of time on  
22 our behalf and a waste of a lot of time on your  
23 behalf.

24 Also, it is with great difficulty  
25 in regards to information technology. To the best

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1 of my knowledge, the information technology  
2 systems between state governmental entities, they  
3 don't communicate with each other, and I know  
4 first hand that they can't communicate with our  
5 information technology over some basic simple  
6 things like the electronic signature. The  
7 Department of Human Services doesn't accept an  
8 electronic signature, and this is in 2010. That's  
9 not an effective way to do business. Where I  
10 work, I've been the Executive Director for 11  
11 years and we've had three random audits from the  
12 Department of Human Services. That's in addition  
13 to our independent audit that we have to perform.  
14 Each time there's been no findings, so an approved

15 state worker comes out to confirm what the  
16 independent auditor already found. I can  
17 understand if there were findings in previous  
18 audits, but there's no findings, so -- and I've  
19 experienced that myself, so that's just a couple  
20 of examples. Everything else is in writing and I  
21 appreciate your time.

22 LI EUTENANT GOVERNOR GUADAGNO: I  
23 understand Senator Buono has a few questions.

24 MR. DAVISON: Hi.

25 SENATOR BUONO: Hi. How are you?

25

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1 MR. DAVISON: Great.

2 SENATOR BUONO: I'm surprised you  
3 didn't bring your big stack of supporting  
4 documents, what it takes to apply for a contract.

5 I know Debra Winn spoke to the --  
6 she testified this morning before the Senate  
7 Budget Appropriation Committee.

8 MR. DAVISON: She has a stack.  
9 It's too heavy to carry.

10 SENATOR BUONO: She has the stack,  
11 okay.

12 Not only does each Department have  
13 their own contracting process and contracts that  
14 differ and duplicate one another, but within the  
15 divisions, each division differs. Human  
16 Services --

17 MR. DAVISON: That's actually  
18 correct.

19 SENATOR BUONO: -- Human Services,  
20 for example, and I held a non-profit, it was such  
21 a problem, it has been such a problem over the  
22 years that I do a round table, a non-profit round  
23 table in the fall and a lot of these issues came  
24 to the forefront and this was by far one of the  
25 most serious issues. It's not something we can

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1 really address through legislation. It's  
2 something that --

3 LI EUTENANT GOVERNOR GUADAGNO:  
4 That's definitely on me.

5 MR. DAVISON: If I may, quickly,  
6 the state employees I have worked with are good  
7 people and have good faith. There's just too many  
8 cooks in the --

9 SENATOR BUONO: Right.

10 LI EUTENANT GOVERNOR GUADAGNO:  
11 Right.

12 MR. DAVISON: That's the issue.

13 LI EUTENANT GOVERNOR GUADAGNO:  
14 There's got to be a way, take it out of the, take  
15 it out of there and get some uniformity in the  
16 system.

17 MR. DAVISON: That sums up my  
18 testimony.



19 SENATOR OROHO: If we can get a  
20 hold of that stack, it had to be six inches tall.  
21 MR. DAVISON: We'll provide that  
22 for you. Great. Thank you.  
23 LI EUTENANT GOVERNOR GUADAGNO:  
24 Unless David Brogan is here -- all right. Then I  
25 think Suzanne Del Vecchio.

27

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1 MS. DEL VECCHIO: Thank you.  
2 MR. ROSS: Good afternoon. Scott  
3 Ross, New Jersey Food Council.  
4 MS. DEL VECCHIO: I've already --  
5 MR. ROSS: I've also signed up. We  
6 signed up together, so --  
7 LI EUTENANT GOVERNOR GUADAGNO:  
8 Okay. Speak a little louder so the reporter can  
9 take down your name, in case we miss something.  
10 MR. ROSS: My name is Scott Ross  
11 and I'm the Vice-President of Government Affairs  
12 for New Jersey Food Council. The Food Council  
13 represents the retail food distribution industry,  
14 which encompasses the supermarkets, convenience  
15 stores and major food manufacturers, such as  
16 Kraft, Campbell Soup, etcetera.  
17 LI EUTENANT GOVERNOR GUADAGNO: I  
18 think I have testimony here that's labeled New  
19 Jersey Food Council, Report for the Red Tape  
20 Review Group dated March, 2010.

21 MR. ROSS: That is correct. That  
22 was submitted this afternoon.

23 LI EUTENANT GOVERNOR GUADAGNO:

24 Thank you.

25 MR. ROSS: I think we submitted six

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1 points, six regulations that we believe are in  
2 need of reform. I'm only going to talk about two  
3 today, the cigarette sales tax issue and the fuel  
4 coupon issue, which are the first two on the list.

5 The cigarette sales tax issue  
6 recently, in December of 2009, a new regulation  
7 was put in place that requires cigarette retailers  
8 to charge sales tax on the minimum, state minimum  
9 price of cigarettes, not the price they are  
10 selling cigarettes at at retail. This is causing  
11 quite a bit of not only confusion, but continuing  
12 nightmares for our cigarette retailers, and  
13 Suzanne can talk a little bit more about --

14 LI EUTENANT GOVERNOR GUADAGNO: I  
15 understand --

16 MR. ROSS: -- what the problem is.

17 LI EUTENANT GOVERNOR GUADAGNO:

18 You're Suzanne Del Vecchio, right?

19 MS. DEL VECCHIO: Yes.

20 LI EUTENANT GOVERNOR GUADAGNO: I  
21 understand there's some pretty interesting  
22 examples of how much chaos this causes.

23 MS. DEL VECCHIO: We are unable to  
24 determine a way that we can actually do this  
25 because it would require a retailer such as Quick

29

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1 Chek, with 120 stores in New Jersey, to charge a  
2 tax separately on one particular item. Cigarettes  
3 are sold to us at the manufacturer with various  
4 promotions which, by contract, require us to pass  
5 immediately on to the consumer. The regulation  
6 that came forward in December says we don't care  
7 about what you actually sell these cigarettes at  
8 to a consumer, we want you to pay tax, we want the  
9 consumer to pay tax on the arbitrary, arbitrarily  
10 set minimum state price.

11 LI EUTENANT GOVERNOR GUADAGNO: How  
12 do you determine what the -- I'm going to leave  
13 arbitrarily out of that. How do you determine  
14 what the state price is?

15 MS. DEL VECCHIO: State posted by  
16 the Division of Taxation on a daily, weekly,  
17 monthly, I don't know, ongoing basis.

18 LI EUTENANT GOVERNOR GUADAGNO: As  
19 it was related to me, the price could change every  
20 day.

21 MS. DEL VECCHIO: Every day.

22 LI EUTENANT GOVERNOR GUADAGNO: So  
23 I'm in Quick Chek, I go in Quick Chek, I want to  
24 pay the tax, the only way I could pay the proper

25 amount of tax is if I pull up the sales tax of the

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1 day on-line?

2 MS. DEL VECCHIO: You would have to  
3 go on-line to see what the minimum sale price is,  
4 and the minimum sale price, it takes into account  
5 various factors, including what the manufacturer  
6 sells the cigarettes -- the manufacturer's cost,  
7 distributor's cost, retailer's cost. The  
8 manufacturer's cost with the various promotion  
9 would, by definition, decrease the minimum sales,  
10 the minimum price.

11 LIEUTENANT GOVERNOR GUADAGNO:  
12 Okay.

13 MS. DEL VECCHIO: It would be, it  
14 would be a continuing nightmare to try to figure  
15 out how to actually do this tax and then explain  
16 to the consumer why they are being taxed on \$7.50  
17 as opposed to the \$7 they actually paid.

18 LIEUTENANT GOVERNOR GUADAGNO: It  
19 was instituted on December 7, 2009. How is it  
20 working out now?

21 MS. DEL VECCHIO: Not very well.

22 LIEUTENANT GOVERNOR GUADAGNO: Do  
23 you think they pay -- I know you can't speak for  
24 any specific client, and I don't want to get you  
25 in any trouble, but do you think they're paying

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1 the tax?

2 MS. DEL VECCHIO: From two people  
3 I've spoken to, I don't believe the people are  
4 having, I don't think they're having an easy time  
5 trying to figure this out.

6 LI EUTENANT GOVERNOR GUADAGNO:  
7 Okay.

8 MR. ROSS: Thank you.

9 The second issue we'd like to talk  
10 about is the use of coupons when purchasing fuel,  
11 filling up your gas tank. Right now state  
12 regulations prohibit the use of give-aways, such  
13 as free glassware, etcetera. I'm sure you know  
14 that. However, the term give-away encompasses the  
15 use of coupons. For example, if you fill up your  
16 gas tank, pay with a debit or credit card, you get  
17 a receipt for that purchase. On the back of the  
18 receipt you're not allowed to put a coupon, for  
19 example, say 50 cents off a cup of coffee. We,  
20 meaning the Food Council and its members, do not  
21 understand -- we understand the intent is to  
22 prohibit the below cost fuel sales, which is an  
23 issue that is very politically frightening, to say  
24 the least, but a coupon for 50 cents on another  
25 piece of merchandise would not necessarily affect

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1 your price of fuel that the company is paying, and  
2 I know Suzanne, I think you do it in other  
3 states.

4 MS. DEL VECCHIO: Other states will  
5 allow not only may you give a consumer coupon, you  
6 can also have special promotions. For example, on  
7 a grand opening you can sell fuel below cost for  
8 three days. You can have a founder's sale for a  
9 day where you can sell fuel below cost, but every  
10 other state we are aware of allows some type of  
11 coupon or promotion with the sale of gas, except  
12 New Jersey.

13 LI EUTENANT GOVERNOR GUADAGNO: This  
14 is a statute, right?

15 MS. DEL VECCHIO: This is a  
16 regulation.

17 LI EUTENANT GOVERNOR GUADAGNO: It's  
18 a regulation?

19 MS. DEL VECCHIO: Yes. Regulations  
20 prohibit -- the statute says no sale of gas below  
21 cost. Regulations prohibit the give-aways and  
22 coupons and any other promotion.

23 LI EUTENANT GOVERNOR GUADAGNO: If I  
24 go to the gas station on the border of New Jersey  
25 and Pennsylvania, Pennsylvania can issue coupons,

1 New Jersey cannot?

2 MS. DEL VECCHIO: And I believe  
3 they do. They can put on the receipt 50 cents off  
4 a bottle of soda inside the store.

5 LI EUTENANT GOVERNOR GUADAGNO:  
6 Okay. Soda having nothing to do with the original  
7 intent of the legislation, which is to prevent  
8 low --

9 MS. DEL VECCHIO: Cost.

10 LI EUTENANT GOVERNOR GUADAGNO: Has  
11 anybody challenged that, to your knowledge?

12 MS. DEL VECCHIO: Not recently.

13 LI EUTENANT GOVERNOR GUADAGNO: All  
14 right. Any questions?

15 COMMISSIONER MARTIN: No.

16 LI EUTENANT GOVERNOR GUADAGNO:  
17 Anything else you want to add?

18 MR. ROSS: That's it. Everything  
19 else is in our report.

20 LI EUTENANT GOVERNOR GUADAGNO:  
21 Appreciate it.

22 MS. DEL VECCHIO: If you have any  
23 questions, please feel free to contact us. Thank  
24 you.

25 LI EUTENANT GOVERNOR GUADAGNO:

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1 Thank you, very much. I appreciate it.

2 All right. I believe David Brogan

3 is in the house. Mr. Brogan, I was just provided  
4 with a copy of a document that's dated, it says  
5 updated August 6th, 2008. It's got your name and  
6 phone number on it and it's got a map of New  
7 Jersey on the front page. Is that the document  
8 that you're going to talk about today?

9 MR. BROGAN: I will use that  
10 briefly, yes, and I apologize for being late. I  
11 do appreciate you giving me time to speak to you  
12 today. I know just about everybody except for  
13 you, Lieutenant Governor. I apologize, I met you  
14 once or twice. What I'd like to do is touch upon  
15 three things as quickly as possible. I know you  
16 have a lot of people.

17 For the record, my name is David  
18 Brogan. I'm Vice-President of Environmental  
19 Policy at the New Jersey Business and Industry  
20 Association. First thing I would like to talk  
21 about is the Public Access rule, and we feel that  
22 rule should be repealed first. Second, I'll talk  
23 about the perception of reasonableness within the  
24 rule-making process, very briefly, and third, how  
25 an outside entity could possibly help the process

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1 of shepherding projects through the regulatory  
2 process.

3 Starting with the Public Access  
4 rule, in 2007 the DEP passed a rule that was



5      couched as beach access. What the rule did, it  
6      said any entity along the tide and flow waterway  
7      anywhere in the state must provide 24-hour access  
8      to that waterway through its property, and if it  
9      can't do that it must pay for access to be  
10     provided elsewhere. I gave you the map just to  
11     give you a sense of where, what we're talking  
12     about here, and this shows you tidelands and it  
13     shows you tide and flow areas, so when you're  
14     talking about beach access, that is something  
15     totally different from what we're seeing here, and  
16     this goes inland some 10, 15 miles sometimes, so I  
17     wanted to give you some perspective on that. This  
18     rule differed from previous iterations of what was  
19     being done and that is the Department was somewhat  
20     flexible. They said if it's not feasible or  
21     practical, we're not going to require you to  
22     provide that access. This new inflexibility that  
23     they created by saying you pay for access on-site  
24     or pay for access off-site basically created a tax  
25     on businesses. Now, there was no formula that was

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1      created to come up with the amount that you would  
2      pay. DEP had the final determination, and it was  
3      triggered by certain permits that you would need,  
4      say the waterfront development permits if you were  
5      doing maintenance on a bulkhead or something of  
6      that nature, and we said at the time that this is

7 completely unreasonable. We looked at their  
8 Economic Impact Analysis, which is on the second  
9 and the third page of what I gave you. It  
10 mentions tourism but it really makes no mention of  
11 the impact on businesses at all, and we, we  
12 submitted comments to that affect. The comments  
13 are on page -- the last two pages, and you can see  
14 the comment and then the response, and when we  
15 talked about things in terms of potential  
16 disastrous financial burdens on businesses, the  
17 response that we got was that, you know, public  
18 access creates positive externalities, from  
19 souvenir shops to gas stations to meals, the local  
20 restaurants, the community stands to benefit.  
21 We're not talking about beach access here. We're  
22 talking about access to refineries, to chemical  
23 facilities, to nuclear power plants. I don't know  
24 how many souvenir shops pop up around those areas  
25 but it doesn't seem that reasonable to think

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1 you'll see these souvenir shops at or near nuclear  
2 power plants or refineries. The thing that really  
3 bothered us, it wasn't -- and they do mention it  
4 and I have to be -- I have to clarify. They do  
5 talk about what they recognized in terms that  
6 there is an impact to businesses in the following  
7 paragraph, but they really have no idea what the  
8 true impact is.

9 Now, I staffed the Transition Team  
10 for the Governor, the DEP's Transition Team. One  
11 thing we asked the outgoing Commissioner was how  
12 many projects triggered the rule, how much money  
13 was collected and can you give us any details on  
14 the projects that these monies funded. The answer  
15 is 120 projects as of December triggered the  
16 rule. They only gave us a list of eight companies  
17 that paid for those off-site access fees, totaling  
18 \$869,900, over eight -- over \$100,000 per company,  
19 and the answer to the details in these projects  
20 was they didn't keep track of where the money was  
21 going. The reason is the Department was acting as  
22 a shepherd. They were working as a middle person  
23 between the company and whatever municipal project  
24 that that was going to fund, so that's where it  
25 was a little bit confusing, as to how much money

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1 was collected and where the projects were going,  
2 what was being funded. Now, the Legislature saw  
3 in 2008 that this was going to cause a problem.  
4 From the business communities' perspective, we  
5 have entities, we have marinas, we have chemical  
6 and industrial port facilities. The Legislature  
7 passed a law in 2008 that exempted marinas from  
8 the rule for two years and during that time they  
9 were supposed to create a task force to look into  
10 the impact that this rule would have on the

11 marina. The Department had no incentive to create  
12 the task force and so they never created it. When  
13 they were issuing permits at that time they were  
14 issuing them with placeholder language in 2008,  
15 saying in 2010 when they're no longer in effect  
16 you're going to have to provide access, public  
17 access as a condition of the permit that you  
18 received in 2008. Again, you asked for an  
19 example, I'm trying to give you the clearest  
20 example of regulations gone wrong.

21 LI EUTENANT GOVERNOR GUADAGNO:

22 That's clear as mud, I think. Isn't it?

23 MR. BROGAN: Okay. Two last things  
24 on this, and I'll be brief. There was a bill,  
25 A-2954, that exempted port facilities, energy

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1 facilities, military facilities, industrial  
2 facilities and chemical facilities from this  
3 rule. Ironically, as that bill was moving through  
4 the process, the DOT came in and lobbied  
5 Legislature to get themselves taken out, so you  
6 have a State Agency lobbying Legislature to get  
7 themselves taken out of a rule. Again, there  
8 wasn't logic behind the rule to begin with, so if  
9 you were doing a transportation project near a  
10 tidal waterway, the trigger was you would have to  
11 provide access to that waterway, and clearly you  
12 can't do a highway project, there's no way you can

13 do that.

14 LI EUTENANT GOVERNOR GUADAGNO: Is  
15 this the rule that if -- I live in a shore town.  
16 If I'm a marina owner and I wanted to fix my dock,  
17 that would trigger it and suddenly I had public  
18 access requirements?

19 MR. BROGAN: Exactly. Exactly, and  
20 I think it was from the Marine Trades Association  
21 and she was spearheading for the marina industry.  
22 Marinas are unique in nature because they're  
23 taking care of other people's property, so to sit  
24 there and say we want you to provide 24-hour  
25 access -- what does that mean? That means I have

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1 to hire a security guard, I have to put up fences  
2 and things like that.

3 LI EUTENANT GOVERNOR GUADAGNO: And  
4 parking spaces, too, I remember.

5 MR. BROGAN: Right. There were  
6 other provisions in the rule with regards to  
7 parking, bathroom facilities and -- and two of  
8 those things got shot down. What they said, the  
9 Appellate Court said that you cannot require  
10 parking or bathroom facilities as a condition of  
11 receiving shore protection funds, so that part of  
12 the rule was pushed aside. That was the Avalon  
13 decision, and there's still some negotiations.  
14 The icing on the cake of this rule is that the DEP

15 owns six marinas. They operate three and they  
16 lease three. When we asked them if they could  
17 comply with their own rule they said no. They  
18 said they don't have the funding and they don't  
19 have the resources to comply with their own rule.  
20 You know, I have to be honest, I have mentioned  
21 this briefly to the new Commissioner, and  
22 congratulations, getting confirmed the other day,  
23 and he's been very open to discussion, as you are  
24 with going forward on all rules. We appreciate  
25 this. Now, the Department probably felt this was

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1 reasonable when they did it but, I mean, when you  
2 read these responses to comments -- they thought  
3 it was reasonable.

4 This kind of, kind of segways into  
5 other issues within the Department that we have  
6 problems with. Rules that determine whether or  
7 not it's reasonable to charge companies X number  
8 of dollars to meet certain standards. For  
9 example, air quality standards such as NOx. The  
10 EPA does a study and they say okay, if you're  
11 going to reduce NOx by one ton, it's reasonable to  
12 expect you would spend \$3,000 to \$5,000 on a piece  
13 of equipment to meet that standard. Other states  
14 in the surrounding area use EPA's model. In New  
15 Jersey that same amount is \$30,000, so a company  
16 that's going to reduce NOx by five tons will pay

17 25,000, perhaps in Pennsylvania they'll pay  
18 150,000, perhaps in New Jersey -- and then  
19 deciding where they're going to go, and more than  
20 likely they're going to go to Pennsylvania, and  
21 then we get the worst of all cases because the air  
22 blows the emissions right over our state, so it's  
23 a lose, lose, lose.

24 Last thing I know you want me to  
25 touch on is the shepherding. One of the things

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1 that was mentioned in the Transition Group Board  
2 was the idea of having some entity that could  
3 shepherd projects through the process. Problems  
4 that we've seen, if you're doing the site  
5 remediation, a site clean-up and you go through  
6 the process and you have a real actual work plan  
7 which basically says what you're going to do to  
8 clean up that property and then the Department  
9 approves that plan, you then have to go for land  
10 use permits. What can happen is the Department  
11 can say we're going to allow you to take X number  
12 of cubic yards of fill out of this area and  
13 replace it with clean fill, you know, to get the  
14 land use permit, but then the wetlands say no, you  
15 can't touch it, it's wetlands and that's a  
16 problem, so having something within the  
17 Department, someone within the Department to work  
18 within the program areas will be very helpful.

19 Again, for the larger projects we'll need permits  
20 from DOT, the DCA and DEP, but having someone  
21 either under your staff or somewhere else trying  
22 to bring those people together will -- and we did  
23 hear stories during the transition process where  
24 people would sit down with people in Pennsylvania  
25 and they would have high level officials from

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1 Treasuries, from DEP, from DOT, they would be  
2 guaranteed permits within X number of weeks.

3 LI EUTENANT GOVERNOR GUADAGNO:

4 Guaranteed permits or guaranteed answers to the  
5 permits?

6 MR. BROGAN: That's a good  
7 question. You know, when you hear these stories,  
8 sometimes you have to kind of dig into the  
9 details, but the turn-around times for the permits  
10 were much quicker, I'll just say that. The other  
11 thing you can get a lot of times, and they are  
12 trying to entice companies to come there, is  
13 during that meeting you can get a tax abatement  
14 for 10 years, and that's what happened to one of  
15 the companies, so as an example, and that's just  
16 an example. Anything that you can do as a  
17 Committee to suggest and work with the  
18 Commissioner on how he feels things would be best  
19 served in the Department, and then also outside of  
20 the Department, some, some entity to coordinate



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21 those permits would be extremely helpful.  
22 LI EUTENANT GOVERNOR GUADAGNO:  
23 Thank you.  
24 Any questions?  
25 COMMISSIONER MARTIN: Just a quick

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1 comment.  
2 Thanks, Dave, for your comments. I  
3 mean, one of the things we're doing already, and  
4 Dave knows, the Lieutenant Governor knows, we've  
5 already established a state process for this  
6 within the DEP to work on the whole access issue.  
7 We realize it's a major issue. We realize there's  
8 some flaws in the regulations. I know Senator  
9 Smith has been working on legislation and we're  
10 working with his office. We're trying to get all  
11 the different groups at the table to address this  
12 and look at it for the long hall. There are some  
13 decisions we have to make on this. There are  
14 still areas of public interest that we have to  
15 work through, there's Homeland Security issues we  
16 have to work through and there's issues on the  
17 perception of taxes from companies that we have to  
18 work through. There are a lot of issues and we're  
19 going to work on all of those.  
20 On your last point, and Dave is  
21 right on, you know, what we've established,  
22 indeed, is a new existing Commissioner for

23 Economic Development that's going to be working  
24 and have a one-stop shop there, so as you come in  
25 the door of DEP, you have multiple permits you

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1 have to get, you're going to come to one place,  
2 start there and know the full scale of what you  
3 have to go forward with in the future, so we're  
4 working on those and we appreciate your input on  
5 them.

6 MR. BROGAN: Once again, I'd just  
7 like to thank the Committee, or the Red Tape  
8 Review Group as a whole. Your efforts are  
9 tremendously encouraging to the business community  
10 and I know Legislators have been working on  
11 legislation that follows through with what the  
12 Governors have been doing on Executive Orders.  
13 Once again, I want to express our appreciation for  
14 you working on that.

15 LIEUTENANT GOVERNOR GUADAGNO:  
16 Anybody else? All right. Thank you, David.  
17 Thank you, very much.

18 I see that Mayor John McCormac is  
19 here. John, thank you for coming in this  
20 afternoon. I appreciate it. Thinking of one-stop  
21 shopping, Mayor, you were on the Commission  
22 Development Transition Team and I believe you've  
23 been invited to tell or give us a preview or a  
24 little bit of what you have learned in the last

25 couple of months as part of the Transition Team.

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1 Thank you.

2 MAYOR McCORMAC: Certainly.

3 Thank you, very much, Lieutenant  
4 Governor, Senators, Assemblymen, Commissioners,  
5 everybody else who I don't know.

6 It is my pleasure to present a  
7 little bit about our Economic Development and Job  
8 Growth Subcommittee Transition Report. We dealt  
9 with a lot of issues, heard a lot of testimony  
10 from a lot of different groups, so many people in  
11 the audience now, and I issued a 20-page report  
12 that we think is very extensive in terms of its  
13 recommendations as to what New Jersey needs to do  
14 to become more business friendly. We talked about  
15 taxes, we talked about small businesses and we  
16 talked about infrastructure. Probably the biggest  
17 issue that we recommended, you just heard a little  
18 bit about it, is the issue of one-stop shopping.  
19 Right now, from my experience in Trenton, as  
20 Treasurer, where I get a lot -- well,  
21 significantly involved in economic development,  
22 even as Mayor, now I have companies that want to  
23 come in to the town and, therefore, have to get  
24 approvals from the state. The biggest challenge  
25 is navigating the bureaucracy of Trenton.

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1 Typically, a company will have to go through six,  
2 seven, eight, nine different stops in Trenton to  
3 get the various level of approvals, to get various  
4 levels of grants and financial assistance, loans  
5 or whatever it takes. There are so many different  
6 entities involved in economic development right  
7 now in the state, it's virtually impossible to  
8 navigate them and to understand where all the  
9 different avenues of access are. There's the  
10 obvious, the DEP, DOT, DCA which controlled much  
11 of the permits. There are granting sources all  
12 over the place. DEA has loans, Redevelopment  
13 Authority has loans, the Department of Labor and  
14 Work Force Development has work force grants, the  
15 BPU, these development agencies have economic  
16 growth, the Port Authority and New Jersey Transit,  
17 so many different entities have a hand in the  
18 company's decision as to whether they should  
19 relocate to or expand in New Jersey. That is  
20 virtually impossible to deal with, so we have  
21 recommended that, or among our most important  
22 recommendation was the creation of a very strong  
23 Partnership for Action. That would be a central  
24 spot where people could go and get a  
25 representative who would then be responsible,

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1 under the auspices of Lieutenant Governor, to  
2 bring the DET, to bring every entity to the table,  
3 bring and be able to navigate the web of  
4 permitting, and to also know all the different  
5 grant funding sources which would all be rolled up  
6 in this, so between the Partnership for Action and  
7 Economic Development Authority, there would be  
8 everything located in those areas and that would  
9 be the place you go. You get your account manager  
10 and you'll know, or slowly know every place to be  
11 at. It could be under Lieutenant Governor. It  
12 could be under the state. It could be under  
13 anywhere. The important thing is know where it  
14 is. The important thing is what it is and what it  
15 should be is the place to go.

16 Just a couple months ago we had a  
17 company come into Woodbridge. We come down to the  
18 Economic Development Office, great, good stop, but  
19 then we had to learn everything from there. From  
20 them, we then had to go to DEP, from them we had  
21 to go to DOF and DCA, from them we had to go to  
22 Labor, and there's still things we probably missed  
23 in terms of what we could access, so the very  
24 strong recommendation from us, through whatever  
25 entity is decided upon by the Governor, Lieutenant

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1 Governor, Legislature is to have an area,  
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2 one-stop.

3                   When I was Treasurer there was a  
4 company called O'Neil Properties that wanted to  
5 redevelop the old Woodcrest Avenue building, next  
6 to the old Woodcrest Avenue Transit Station. They  
7 literally came to our office and we brought  
8 together everybody in one room, in the Treasury  
9 Conference Room. They would say today we turned a  
10 two year process into a six month process, in  
11 terms of tell me what you need, tell me now and  
12 I'll get it done, what permits do I need, what  
13 approvals do I need, who do we have or who do I  
14 have to answer to, who do I have to file with,  
15 tell me everything now, because what a business  
16 needs is certainty and the certainty could be the  
17 know. The certainty can be you can't get this  
18 permit because you don't have this. Okay, I'll  
19 redo my plan, now I'll come back and I'll get that  
20 permit. That's what we need, more of those kind  
21 of experiences, where a company could come in and  
22 everybody at the table or the people at the table  
23 know how to access everybody who needs to be at  
24 the table, you get all the answers up front. You  
25 ask the pharmaceutical companies about the health

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1 care in New Jersey, what's their biggest problem,  
2 access and permitting, it takes too long, it's too  
3 cumbersome, it's too uncertain. They'd rather

4 find out in three months it's a no instead that  
 5 they find out in two-and-a-half years it's a no.  
 6 That's the reason why people go to North Carolina,  
 7 that's the reason why people go to Massachusetts  
 8 and other states, because the quagmire of just  
 9 access and availability of decision-makers in New  
 10 Jersey is very, very difficult.

11 So, I congratulate you on the  
 12 efforts you've taken with the Red Tape Review  
 13 Commission. We recommend complete review of  
 14 regulations similar to what you're doing on the, I  
 15 guess the Government side, and what you've  
 16 recommended also on the Commission Development  
 17 side, we want to look at every regulation, inhibit  
 18 second commissions, whether DET, DCA or anybody.  
 19 What regulations are out there, let's break them  
 20 down, let's eliminate what we don't need, let's  
 21 make access easier and let's make the granting of  
 22 loans and permitting much easier.

23 Thank you, very much.

24 LI EUTENANT GOVERNOR GUADAGNO:

25 Thank you, Mayor. Senator has a question.

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1 SENATOR BUONO: I really wanted to  
 2 say to my fellow Middlesex County Elected  
 3 Official --

4 MAYOR McCORMAC: Thank you.

5 SENATOR BUONO: -- we're very

6 fortunate to have him. The Governor was fortunate  
 7 to have him on the Transition Team. We're very  
 8 fortunate to have the wealth of knowledge you  
 9 have, and that is not just book knowledge, but you  
 10 certainly have a wealth of information that is  
 11 common sense and practical and I have to  
 12 acknowledge publicly that I drew from that  
 13 expertise when I was Chair of the Budget  
 14 Committee, you were very, very helpful in terms of  
 15 navigating the budget, the budget process, and in  
 16 particular, the pension system, so I just wanted  
 17 to thank you for that.

18 MAYOR McCORMAC: Thank you.

19 LI EUTENANT GOVERNOR GUADAGNO:

20 Anybody else?

21 I have one question, Mayor. How  
 22 did you deal with the municipalities and the  
 23 different levels of Government? I mean, you have  
 24 the state, you have the county, you have the  
 25 locals --

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1 MAYOR McCORMAC: Well, that's also  
 2 a challenge. When it came to the Partnership for  
 3 Action, we're recommending that there be somebody  
 4 at that Board level that has knowledge of the  
 5 localities, knowledge of how County Leaders are,  
 6 how to access them, who the Town Mayors are and  
 7 how you get to the Board process, whether the



8 Planning Board, Zoning Board, Redevelopment Agency  
 9 Board, whoever it is, you need somebody at that  
 10 level. Because say the mayor of the town doesn't  
 11 want the project, it doesn't matter what the state  
 12 does because the mayor is going to say no, so you  
 13 have to bring everybody to the table so at that --  
 14 when I say a big group, DOC, etcetera, at that  
 15 table there also has to be somebody who can access  
 16 the local elected officials, local boards and  
 17 advocate on their boards, okay, we love this  
 18 project here but if the mayor said it's too much  
 19 traffic or it's too much flooding, that voice has  
 20 to be heard. There's got to be some person at the  
 21 table that can get to that level of Government and  
 22 understand how it all works.

23 LI EUTENANT GOVERNOR GUADAGNO: And  
 24 then with respect to the size of the project, you  
 25 wouldn't do that for every project?

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1 MAYOR McCORMAC: I think there's a  
 2 job threshold. I don't know if the number is 500,  
 3 1,000 or 250, but there's a job threshold where  
 4 you get this kind of level of support. You're  
 5 coming in with a 10 job office building, you're  
 6 opening a retail store, you certainly wouldn't get  
 7 the DOT or the DEP Commissioner at the table. If  
 8 you're coming in with a number, pick a number, say  
 9 500, you're coming in with that kind of level, or

10 10 million more, some kind of number, you got to  
11 get access to the people who are making the  
12 decisions. That's what -- that will turn around  
13 this report, if implemented, even if embraced by  
14 this group and by the Governor's Office, the  
15 recommendations in this room, once embraced, will  
16 just turn our reputation around nationally. We'll  
17 go from a state where it's very difficult to do  
18 business to one where you can get to the DEP  
19 Commission, Bob Martin shows up at a meeting with  
20 the president of a company looking to expand,  
21 bringing 500 jobs, or a drug company, Biotech,  
22 Telecon, you get them at the table, DOF Commission  
23 at the table, you impress people and you get them  
24 to pay attention and realize New Jersey is open  
25 for business, so that's what we're recommending.

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1 LI EUTENANT GOVERNOR GUADAGNO:

2 Thank you, very much, Mayor. I appreciate it.

3 MAYOR McCORMAC: Thank you.

4 LI EUTENANT GOVERNOR GUADAGNO:

5 Thank you.

6 Bi ll Wol fe.

7 MR. WOLFE: Good afternoon. Thank  
8 you. I have two hats on here today. My name's  
9 Bi ll Wol fe and I'm Director of the organization  
10 known as Public Employees, Public Employees for  
11 Environment Responsibilities.

12                   LIEUTENANT GOVERNOR GUADAGNO: Can  
13   you give us your name?  
14                   MR. WOLFE: I'm trying. Bill  
15   Wolfe, W-O-L-F-E, Director of Public Employees for  
16   Environmental Responsibilities.  
17                   We're a state based national group  
18   that provides support for the professionals in the  
19   agency at the federal and state level that work on  
20   enforcement of environmental laws, public  
21   disclosure and important information. I'm here to  
22   express concerns about the, both the premise that  
23   we're proceeding under with respect to how  
24   environmental policy, environmental requirements  
25   are affected by what is being -- majority is being

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1   presented as red tape and my concern is that quite  
2   a bit of what is being presented as red tape or  
3   reasonableness, Dave Brogan talked about  
4   reasonableness, is really the underlying technical  
5   merits and the guts of what we do, to protect the  
6   environment. Okay. On the other side of the  
7   coin, I think we're missing the real economic  
8   crisis that we're in at this point in time in  
9   terms of -- it's almost as if I'm in the twilight  
10   zone, because if I read the column in terms of the  
11   national picture of where the economy is, it seems  
12   to be a consensus that the economic recession is  
13   driven by failure of the financial portion of the

14 economic development farm. It has to -- it has  
15 nothing to do with regulatory red tape or  
16 barriers. It has everything to do with the fact  
17 that you can't get financing, and there's no  
18 demands, so I'm at a loss to try to get my head  
19 around why this whole process seems to be micro  
20 focusing on regulatory requirements from an  
21 economic standpoint. The environmental question  
22 becomes important because the Executive Order No.  
23 1, as you know, froze 12 DEP rules. Second of  
24 all, number one also, also had a process under  
25 which any rule, if it affected public health,

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1 safety or the general welfare could have been  
2 exempt from the provision. There was a 10 day  
3 window under Executive Order No. 1, for the  
4 Commissioner to make those recommendations to you  
5 and get a rule out from review and that didn't  
6 happen. In the case of the 12 environmental  
7 rules, and the environmental rules really, you  
8 know, the first one we saw was perchlorate  
9 drinking water standards. It's under development,  
10 five years, and scientists find it necessary to  
11 protect things like woman, pregnant woman and  
12 young children from the effects of perchlorate on  
13 the thyroid, which then affects brain development,  
14 so it's a very important health based standard  
15 which had no business being reviewed from the

16 Commission Development standpoint. That's not the  
17 only one. There are 11 others that deal with  
18 everything from say drinking water to clean air,  
19 sulfur in fuel, the enforcement requirement for  
20 the Clean Water Act, so all these, all these rules  
21 that have been frozen, the first one that was  
22 decided upon went the wrong way, meaning it didn't  
23 get adopted and as a result it lapsed, so we're  
24 back to the drawing board on that rule. From an  
25 environmental public health standpoint, this is a

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1 very significant break on what should be going  
2 forward. That should not have been part of this  
3 process. I don't believe that that's the intent.  
4 It's not the intent, as I understand the Governor  
5 and everything I read in the paper, that the  
6 intent of this process is not to effect the  
7 underlying environmental standards, and that gets  
8 to the second point. Two of the common sense  
9 principles that I want to focus on are cost  
10 benefit analysis and the what federal alignment  
11 has been described as, it's also federal conform,  
12 it's federal consistency, it's the idea of what is  
13 our relationship between New Jersey state  
14 standards and the federal EPA requirements. With  
15 respect to cost benefit analysis, if it's, if it's  
16 the intent of this group or the Governor to put  
17 the cost of compliance with meeting an

18 environmental standard, if that's the objective  
19 that would need Legislators, because what you're  
20 doing through an Executive Order is elevating, and  
21 your attorney understands this, you're putting in  
22 a decision factor that's external to the criteria  
23 and statute and the criteria and statute deal with  
24 things like, say it's an air pollution control  
25 permit, it has to meet technology based

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1 requirements, it has to meet ambient air quality,  
2 health based requirements. If its water pollution  
3 it has to meet ambient water quality standards.  
4 Those standards are based on science that looks  
5 like a process of coagulant health -- and the  
6 protection of public health in terms of asthma,  
7 disease rates, so costs are external to the  
8 underlying decision, the rule and the economic  
9 analysis under the current law is just  
10 informative, it's just there to say we've made  
11 this choice and this is how much it's going to  
12 cost, and if the Legislature didn't like that --  
13 and Dave Brogan's testimony on NOx were if the  
14 Legislature -- the State of New Jersey does not  
15 want to pay, to pay \$25, \$25,000 a ton, then the  
16 Legislators pass a law, that's the standard, that  
17 cost, and then see if you can get that to EPA,  
18 because you couldn't.

LIEUTENANT GOVERNOR GUADAGNO:

20 Thank you, Mr. Wolfe. I hate to cut you off, but  
21 you can get back in line. I welcome you to come  
22 on back. We're at the five minute rule and we  
23 have other invited guests.  
24 I'm going to start with Jerry  
25 Fernandez.

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1 MR. FERNANDEZ: Thank you. Thank  
2 you, Lieutenant Governor, Senators and fellow  
3 Commissioners. My name is Jerry Fernandez. I am  
4 owner of the Spanish Pavilion. I am also a  
5 Committee Member in the Town of Springfield and on  
6 the Board of Directors for the New Jersey  
7 Restaurant Association. I'm here today with Larry  
8 Blatterfein. We've been fortunate to have Deborah  
9 Dowdell, President of the New Jersey Restaurant  
10 Association working with you. There are many  
11 different, I guess obstacles that we have and  
12 citations with the Restaurant Association and our  
13 industry, in general, and we're here to discuss  
14 just four of them, very briefly, to show you  
15 examples of what we have.

16 One of them being the E141 forms,  
17 which are forms that we are, that we are mandated  
18 to have at our establishment naming all of our  
19 employees by name, where they live, when they were  
20 hired, when they were terminated. We -- if we  
21 hire someone in the morning, they have to be on

22 there right away. If we have -- if we hire a  
23 band, they have to be on there right away. If  
24 they are not and the -- if the ABC were to come  
25 in, we would receive a large fine or lose our --

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1 have our license suspended, which would cost us a  
2 tremendous amount of money. We feel that this --  
3 and our payroll information would carry this  
4 information on it, computers that we have, they  
5 have all of the employees' information on there  
6 and should be substantial. We shouldn't need to  
7 have more paperwork.

8 Another example is wine tastings  
9 and wine samplings. There's a definition for each  
10 one which, to me, still I'm wondering why. We are  
11 not allowed to -- we must give 24 hours notice and  
12 an invitation to come in for a wine sampling, a  
13 wine tasting. To me, which seems a little bit  
14 ridiculous, if we have a customer -- I have a  
15 downstairs dining room and upstairs I'll do a wine  
16 sampling and wine tasting. If I want to open the  
17 door to some of my other guests, I would hope I  
18 would have that opportunity to bring in more  
19 income. Unfortunately, I'm not allowed to, but  
20 yet, the new laws that have passed with liquor  
21 stores, they have less regulations than we do on  
22 their spirit tastings.

23 Also, the raffling off of prizes,  
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24 and bowling allies have these problems. In  
25 Springfield I had a restaurant that recently was

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1 donating -- they were raffling off an Easter egg,  
2 a giant one for a children's hospital. I guess  
3 the forms were not filled out correctly or some of  
4 the red tape that goes through this and  
5 unfortunately they had -- instead of the hospital  
6 receiving \$5,000, which would have helped them  
7 quite a ways, they were restricted and had to take  
8 it down.

9 Also, I'm going to let Larry speak  
10 on another issue, our Industrial Site Recovery  
11 Act.

12 MR. BLATTERFEIN: Thank you for  
13 having me here today. I want to say that I'm  
14 Larry Blatterfein. I own The Knight Club in New  
15 Brunswick, I'm a Director of the New Jersey  
16 Restaurant Association and we represent New  
17 Jersey's largest sector employee base.

18 Indifference to the speaker who  
19 appeared before us, we don't seem to violate the  
20 law, we don't seem to violate the thrust of the  
21 law or the intent of the law, but what we seek to  
22 do is make it workable when we fall somewhere in a  
23 crack which ties up the potential for business  
24 deals. I'm trying to buy a vending business  
25 that's been a restaurant site for 53 years. We're

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1 in the course of doing a phase one study to  
2 alleviate the liability or feeling that there  
3 would be some potential liability and we found  
4 some contamination on the rear end of the  
5 property. We can get into a lot of technical  
6 jargon about where it probably came from, but even  
7 the engineer who did the report acknowledged  
8 significant evidence that there's probably no  
9 reason to suspect this property is the source, but  
10 regardless, because of the liability associated,  
11 that basically has no time frame on it, we have a  
12 potential for a lawsuit anywhere down the road, if  
13 somebody drills a well downstream for us or  
14 whatever, so we now have to go through a phase two  
15 study to approve -- and we probably already know  
16 this, it's called the Industrial Site Recovery  
17 Act. This is not an industrial site, it's a  
18 commercial site, and there are industrial chemical  
19 use and industrial chemicals being used on sites  
20 near us, but that's not what we are. Basically,  
21 what I'm here to say is that, and we all know  
22 this, the time in business deals and just trying  
23 to get the moving parts together on this business,  
24 you know, has taken 11 months, and now I'm  
25 starting to hit the birthday of liquor license

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1 transfers that we've talked about previously, and  
2 getting by this Industrial Site Recovery Act,  
3 which is going to come clean but it's going to  
4 take four to six months, that's some time and, you  
5 know, operators like us are both the bank pulling  
6 back, whether it takes too long and our investor  
7 basically saying we found a business, so thank you  
8 for that and I hope we find some way to get around  
9 what's happening.

10 LI EUTENANT GOVERNOR GUADAGNO:

11 Thank you for your time.

12 MR. FERNANDEZ: We also have a list  
13 of the citations and all the information which  
14 will be --

15 LI EUTENANT GOVERNOR GUADAGNO: I  
16 have in front of me a document labeled New Jersey  
17 Restaurant Association, Tuesday, March 23rd with  
18 the citations. I appreciate that, very much. It  
19 will make it easier for us to look up. Thank you,  
20 very much, gentleman. I appreciate it.

21 Christine Gorham from Sweet &  
22 Sassy.

23 MS. GORHAM: Good afternoon. My  
24 name is Christine Gorham. I am the owner of a  
25 small business in Cherry Hill called Sweet &

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1 Sassy. It's a franchise business. We have been  
2 open about a year-and-a-half and we are a salon, a  
3 store and party place for little girls, generally  
4 around the age of 13. The parent company, Sweet &  
5 Sassy Franchising, operates franchise stores in 17  
6 states. We are currently having a problem with  
7 the cosmetology, the Board of Cosmetology and the  
8 laws there. What we do, we have seven licensed  
9 cosmetologists who work in our store and salon  
10 area who do haircuts, mini-mani's and  
11 mini-pedi's. They're called mini because we don't  
12 use any chemicals in them at all. It's really  
13 more for the salon experience, you know, kind of  
14 the ultra pampering, you know. We don't do any  
15 highlighting hair or anything like that. It's  
16 semi stylists. Our salon area is separated by  
17 half walls in the back of the store. We do  
18 birthday parties. I don't know if you're at all  
19 familiar with Libby Lu, you know, a retail concept  
20 that was owned by Sachs and that was recently  
21 closed. As a part of the parties we have young  
22 girls called party coordinators who do hair, they  
23 use rubber bands, bobby pins and twist it, braid  
24 it, pin it in place, spray a little glitter, just  
25 polish the fingernails and a light make-up

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1 application. Of the hour and 45 minutes of our

2 party, that takes about five minutes per guest.  
3 The State Board of Cosmetology says those girls  
4 need to be licensed, those young girls.

5 LI EUTENANT GOVERNOR GUADAGNO: The  
6 girls in the back? I don't know. I have boys.

7 MS. GORHAM: Right.

8 LI EUTENANT GOVERNOR GUADAGNO:  
9 Girls in the back room are there for a party, to  
10 get their hair sprayed?

11 MS. GORHAM: And twisted and, you  
12 know, we had, we had a hearing in front of the  
13 State Board of Cosmetology where the CEO of the  
14 franchise had come in and was not even allowed  
15 into the room. It was kind of embarrassing. It  
16 is a new business model. Like I said, I own a  
17 store also in Pennsylvania and we have no issues  
18 over there whatsoever. The letter we got from the  
19 State Board requires us not to hire any underage  
20 employees and then fined our girls who were back  
21 there doing it. When they came in they fined them  
22 each \$300 and now it's part of their public  
23 record, so as an employer, I can't -- these are  
24 young girls. I can't risk that.

25 SENATOR BUONO: How old are they?

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1 MS. GORHAM: They're in high  
2 school, a lot of them are in high school, about  
3 14, 15. The 14-year-olds have working papers.

4 They work, they may work two parties, so they work  
 5 two hour shifts or whatever. A lot of girls are  
 6 in college, you know, and their parents are  
 7 thrilled they have jobs. We have 40 people that  
 8 work in the store. I would love to expand in the  
 9 State of New Jersey but we can't operate the  
 10 business model as it was sold to us, the  
 11 franchise, and we think that, you know, there are  
 12 exceptions in the statutes, in the regulations  
 13 that would allow us to do this but I couldn't get  
 14 anybody to listen, so --

15 LI EUTENANT GOVERNOR GUADAGNO: So  
 16 you came here all the way up from Cherry Hill, I  
 17 very much appreciate that.

18 MS. GORHAM: I am so happy you  
 19 exist and I can be heard.

20 LI EUTENANT GOVERNOR GUADAGNO: The  
 21 Board is situated in the AG's Office, but do you  
 22 know off the top of your head, is it the  
 23 Department of Law and Public Safety or --

24 MS. GORHAM: Consumer Affairs.

25 LI EUTENANT GOVERNOR GUADAGNO: It's

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1 Consumer Affairs?

2 MS. GORHAM: Yeah. We went up to  
 3 Newark and we had a hearing and, you know, that  
 4 was last June. They issued us, in October, a  
 5 letter with fines and we requested another hearing

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6 which I don't really expect.  
7 LI EUTENANT GOVERNOR GUADAGNO: You  
8 know what you should do, I'm not acting as a  
9 lawyer right now because that would be wrong, but  
10 you might point out the Executive Order No. 2,  
11 where it talks about reasonable waivers of rules  
12 when you file for the next appeal.  
13 MS. GORHAM: Okay.  
14 LI EUTENANT GOVERNOR GUADAGNO: You  
15 might CC this Committee on the bottom of it.  
16 MS. GORHAM: Okay.  
17 LI EUTENANT GOVERNOR GUADAGNO: I'm  
18 not suggesting the outcome but I do know that  
19 Executive Order No. 2 says you have to act  
20 reasonably, and that's a very short version of a  
21 couple of pages in the Executive Order, but common  
22 sense means common sense.  
23 MS. GORHAM: Right.  
24 LI EUTENANT GOVERNOR GUADAGNO:  
25 Let's see how that works out.

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1 MS. GORHAM: Okay. I appreciate  
2 it.  
3 LI EUTENANT GOVERNOR GUADAGNO:  
4 Thank you, very much.  
5 MS. GORHAM: Thank you.  
6 LI EUTENANT GOVERNOR GUADAGNO: All  
7 right. We have come to the end of our invited

8 guest list and I'm 15 minutes behind schedule, but  
9 I think I started 10 minutes late, so if you don't  
10 mind, we'll take a 10 minute break and come back  
11 here at 4:30 and get ready for the public session  
12 of the meeting.

13 Thank you.

14 (A brief recess was taken.)

15 LI EUTENANT GOVERNOR GUADAGNO: All  
16 right. Everybody who is interested in the next  
17 part of this hearing, what we're going to do now  
18 is call up some semblance of order. I understand  
19 that those who are interested in testifying,  
20 they're on this pink slip. We're going to ask you  
21 to take five minutes and go to the end of the  
22 line, if you would, and if you finish with your  
23 five minutes -- we're going to go until we finish  
24 with the stack and if we miss anybody we will call  
25 you up at the end.

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1 Right now I'd like Fred Jacobs and  
2 Jessica Cohen from the New Jersey Hospital  
3 Association to come front and center. After that  
4 I'm going to ask for Melissa Danko, so there's one  
5 waiting.

6 Okay, Mr. Jacobs.

7 MR. JACOBS: Good afternoon.

8 LI EUTENANT GOVERNOR GUADAGNO: Good  
9 afternoon.



10 MR. JACOBS: Feels like March  
11 Madness with that clock over there. My name is  
12 Fred Jacobs. I'm the General Counsel for the New  
13 Jersey Hospital Association and I want to thank  
14 the various Legislators, Commissioners and  
15 Lieutenant Governor for this opportunity to  
16 testify. We, of course, applaud the overall  
17 effort that the Administration and the Legislature  
18 have jointly undertaken to, I guess bring rule of  
19 reason to the regulatory climate in New Jersey.  
20 We hope that the good work continues beyond the  
21 initial 4-19 report and we're specially pleased  
22 with this body and the Executive Order that's,  
23 well, is in legislation and introduced by  
24 Assemblyman Burzichelli to synchronize state  
25 regulations with federal regulations, because as

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1 you probably know, the health care industry  
2 operates under the close watch of both State  
3 Regulators and the Federal Government. I wanted  
4 to touch on briefly five issues, but sort of mesh  
5 with all of the things that you've been  
6 addressing, and then we have a longer statement  
7 that I'll submit, and I think it's already been  
8 submitted to the Committee Members. The first one  
9 falls in the area --  
10 LIEUTENANT GOVERNOR GUADAGNO: Mr.  
11 Jacobs, let me interrupt you real quick. I want

12 to make sure I have it. Testimony before the Red  
13 Tape Review Committee dated March 23rd, 2010, Fred  
14 Jacobs, General Counsel, New Jersey Hospital  
15 Association; is that right?

16 MR. JACOBS: Absolutely.

17 LIEUTENANT GOVERNOR GUADAGNO:  
18 Okay.

19 MR. JACOBS: Some of this  
20 information has already been shared with staff for  
21 the Commission, so I will be brief.

22 In the realm of state regulations  
23 that really duplicate what the Federal Government  
24 already requires, we make mention of the  
25 requirement of posting staff ratios for nursing

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1 homes. The state imposed a requirement that those  
2 ratios be posted by nursing homes every month when  
3 the Federal Government had already required  
4 virtually identical requirements but not the same  
5 frequency, so we don't really see what the  
6 consumer interest is in advance by the overlapping  
7 of state regulations. Also, we, as hospitals, are  
8 subject to numerous reporting requirements and  
9 some of those date back years. We discuss in our  
10 written testimony the Central Nervous System  
11 Registry for traumatic brain injury and spinal  
12 cord injury, and that was originally a federally  
13 required report, but as best we can tell, the

14 state has made no reports since the year 2000 and  
15 yet because the statute is still on the books, the  
16 Department of Health still requires us to collect  
17 that information.

18 LI EUTENANT GOVERNOR GUADAGNO: You  
19 collect it and then you turn it over to the  
20 Department of Health?

21 MR. JACOBS: We turn it over to the  
22 state, and we're not clear what the state actually  
23 does with it. We did have a dialogue with the  
24 State Health Department to say it doesn't appear  
25 to be reporting to the Federal Government, we

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1 don't know what public health service this data is  
2 meeting, tell us, and what they said is, well, the  
3 statute requires the reporting, you have to  
4 continue reporting until the statutes change.

5 LI EUTENANT GOVERNOR GUADAGNO: On  
6 your testimony right now, could you just identify  
7 that?

8 MR. JACOBS: Page two, the first  
9 full paragraph, which is actually the second  
10 paragraph on that page.

11 LI EUTENANT GOVERNOR GUADAGNO: All  
12 right.

13 MR. JACOBS: And the state also  
14 recently imposed a new Stroke Data Registry Report  
15 requirement for the State's stroke centers -- and

16 I apologize if I'm sniffing, I have a little  
17 cold, so please excuse me. That data collection  
18 tool is duplicative of what the Joint Commission  
19 already requires. The new reporting instrument is  
20 seven pages long for each stroke patient and takes  
21 over an hour to complete, so there, too, we think  
22 that the existing reporting requirements were  
23 sufficient and adequate and we didn't need another  
24 overlay of state regulations.

25 SENATOR BUONO: If I may,

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1 Lieutenant Governor, because I was the sponsor of  
2 the bill that created the comprehensive on primary  
3 stroke centers, and part of that bill, which is  
4 very integral to the whole issue of research, in  
5 terms of what works and what doesn't work in  
6 strokes is compiling a registry and, in fact, you  
7 know, it's done on the -- I know that there were  
8 certain grants on the federal level that help to  
9 support that effort and, you know, cover the  
10 grants, and that's known, but I take issue with  
11 your characterization of them as being  
12 unnecessary.

13 MR. JACOBS: Well, I guess the  
14 other point is, we're not opposed to the  
15 reporting, per se, but we also have no resources  
16 to do the reporting, and as you know, centers and  
17 hospitals in this state are operating on a very

18 thin margin, so each new requirement that comes  
19 without resources imposes an additional burden and  
20 if there's some way to address a funding issue to  
21 meet the reporting requirement --

22 SENATOR BUONO: The whole -- well,  
23 I don't want to take up a lot of time right now.  
24 We can talk about it separately.

25 MR. JACOBS: Sure. We'll

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1 definitely follow-up with you, as sponsor of the  
2 legislation.

3 Then we just wanted to draw your  
4 attention to several, what we call public health  
5 fees that are imposed either disproportionately or  
6 uniquely on the health care -- on the hospital  
7 industry but which fund public health needs. One  
8 is the support of the New Jersey Poison  
9 Information Education Service. Please don't get  
10 us wrong, we think it's an important service, but  
11 it's really a public health service on hospitals,  
12 and this is a leftover from when hospitals were  
13 regulated in the past. Cost alone to the payers,  
14 they can no longer do that, but they still pay a  
15 disproportionate amount of cost. Again, the state  
16 has six Maternal and Child Health Consortia. They  
17 were established, I believe in the early 1990's  
18 and hospitals pay about \$4 million to support  
19 those centers. Many of the services that the

20 consortia provides have now been taken in house by  
21 the hospitals but the hospitals are still required  
22 and only hospitals are required to pay that fee.

23 Finally, there's a requirement  
24 again to support it for genetic screening of  
25 newborns, but hospitals have to pay 100 percent of

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1 the costs of that testing when, again, it's a  
2 public health service in contrast with the newborn  
3 hearing testing, which is also required to be  
4 performed on newborns but that cost is actually  
5 passed reimbursable insurance expenses.

6 Those are the areas that I wanted  
7 to touch on. I'm happy to answer any questions  
8 and, of course, we'll follow-up with Senator Buono  
9 on the stroke registries.

10 LI EUTENANT GOVERNOR GUADAGNO:  
11 Thank you, very much, Mr. Jacobs. I understand  
12 you met with our staff before, so we'll get the  
13 details of the regulations, the statutes.

14 MR. JACOBS: Great. Thank you,  
15 very much. Have a good afternoon.

16 LI EUTENANT GOVERNOR GUADAGNO:  
17 Melissa Danko, and on call will be Larry Nespoli.

18 MS. DANKO: Good afternoon.

19 LI EUTENANT GOVERNOR GUADAGNO: How  
20 are you?

21 MS. DANKO: Thank you for the

22 opportunity to speak today. My name is Melissa  
23 Danko, Executive Director of the Marine Trades  
24 Association of New Jersey. We're a non-profit  
25 trade organization comprised of over 300 marine

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1 related businesses, promoting and protecting the  
2 marine industry and waterways in the State of New  
3 Jersey. We represent hundreds of marine  
4 businesses, both large and small, working to  
5 operate sustainable businesses in New Jersey.

6 I appreciate the opportunity to  
7 provide comments here today and also applaud the  
8 efforts of this group. I'm here today -- my  
9 remarks will be brief, as we are planning to  
10 submit more detailed comments and recommendations  
11 to the group which will propose amendments to the  
12 DEP regulations and rules that are desperately  
13 needed to ensure the economic viability and  
14 sustainability of the recreational boating  
15 industry in New Jersey.

16 The current regulatory environment  
17 and constraints recreational marine businesses  
18 face make it very difficult for them to move  
19 forward economically. Many of these businesses  
20 are family owned and operated. They're trying to  
21 expand their facilities only to get caught up in a  
22 time consuming, complicated and expensive  
23 permitting process. This becomes even more

24 challenging in this economy. It's estimated that  
25 more than 135,000 jobs in this industry have been

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1 lost nationwide, with many businesses in New  
2 Jersey recently closing, a number of dealerships  
3 losing their boat lines and owners suffering to  
4 stay open. On top of that, the conversion of  
5 marinas to waterfront condominiums and development  
6 is a trend that continues to grow both on national  
7 and state levels. In New Jersey we've tracked the  
8 results of these losses and it indicates that in  
9 the last few years over 400 slips that were  
10 available to the public are gone, as well as  
11 boating services from six facilities are now  
12 residential developments. These services that we  
13 lost include boat storage, repair and maintenance  
14 facilities, fuel sales, pump-out facilities and  
15 retail sales of boating and related supplies. All  
16 of these services enable residents and visitors  
17 the opportunity to get on the water, go boating,  
18 and enjoy our resources, natural resources. A  
19 reason economic survey indicated New Jersey  
20 boaters spend 2.1 billion on in-state recreational  
21 boating activities. The data that was captured  
22 from the study confirms how recreational boating  
23 substantially contributes to our economy. A study  
24 like that has never been done before and they  
25 released the results in 2008. It really indicated



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1     how serious boating is in New Jersey and how large  
2     our industry is and how much we need to work to  
3     protect and promote it, especially during those  
4     difficult economic times.

5                     With that said, there are a number  
6     of significant regulatory issues currently  
7     impacting our industry and amendments to these  
8     rules, I kindly ask they be considered  
9     immediately. Marinas and marine businesses are  
10    constantly struggling to work, to work through a  
11    maze of complicated regulations and policies that  
12    contradict many, many of the Department's own  
13    goals and objectives. The DEP has in the past, to  
14    myself and many members of our association,  
15    documented a strong need to preserve and protect  
16    our marinas and waterfronts through various  
17    issues. Over the course of the years I've met  
18    with DEP on many, many occasions, over the last  
19    nine years of my job here and unfortunately we  
20    have had many roadblocks that prevent any progress  
21    from being made. Our amendments would ease the  
22    ability and process for existing marine businesses  
23    to improve, expand or increase their slips and  
24    services, therefore, providing additional,  
25    meaningful and quality access and recreation for

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1 the public without compromising environmental and  
2 natural resources.

3                   The most current issue is one that  
4 David Brogan touched on earlier, the changes to  
5 the Coastal Zone Management rules and the public  
6 access mandates on marinas. I'm not going to go  
7 in too much depth here. I could, but I'm going to  
8 touch on the public access rule, it places serious  
9 mandates on marina owners, increases security  
10 concerns, reduces revenues and increases costs  
11 beyond the ability of marinas to support. Marinas  
12 find themselves boxed in, as they can't improve or  
13 expand without revising their facility for  
14 increased and unlimited public access. It's  
15 required by a permit, as you asked before. To  
16 answer your question, yes, if a marina were to go  
17 and expand their dock or do some sort of  
18 maintenance, they would be required to provide  
19 unlimited public access 24 hours a day, all year  
20 long. We're a seasonal business, so many of these  
21 facilities often close down in the winter, but we  
22 provide the -- we're forced to stay open. The  
23 Legislature intervened in this matter by  
24 suspending the public access rule until this  
25 December 31st, no moratorium. The law required

1 that the Governor establish a Public Access and  
2 Marina Safety Task Force. As stated earlier, the  
3 task force was never appointed, despite continuous  
4 requests. Therefore, we respectfully urge the DEP  
5 to immediately amend the public access rule and  
6 look to exempt marinas from the requirements that  
7 call for deed restrictions, walkways, unlimited  
8 access and additional parking.

9 Another issue that we're currently  
10 working through involves an amendment to the Basic  
11 Industrial Stormwater General Permit for marinas.  
12 Under this amended permit, marinas that currently  
13 wash vessels at their facilities are no longer  
14 permitted to discharge vessel wash wastewater to  
15 surface or ground waters. Effective June 1st,  
16 marinas were required to eliminate the discharge  
17 by either installing a vessel wash wastewater  
18 reclaim system or capturing and hauling the water  
19 away, or ceasing to wash the vessels. We had  
20 requested an extension based on the economic  
21 downturn and the DEP did extend it through,  
22 through March 1st of this past year.

23 In light of the fact that many  
24 marinas are struggling through this economic  
25 climate, we asked for a condition of extension to

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1 coincide with the Permit Extension Act of 2008,  
2 and the expiration date was December 31st, 2012.

3                   LIEUTENANT GOVERNOR GUADAGNO:   Miss  
4   Danko -- did you get that?

5                   MS. DANKO:   In any event, we  
6   received a letter from the DEP that the grant --  
7   that the extension would not be granted and we ask  
8   that it be, it would be reconsidered, since many  
9   marinas are still struggling with that  
10   regulation. Many have replied but some are -- and  
11   some of our additional changes include reductions  
12   in buffers and setbacks, clarification and  
13   amendments to shellfish habitat rules, reduce the  
14   amount of time it takes to obtain tidelands grants  
15   and renewal licenses. I recently assisted one of  
16   our members and it took four years to obtain their  
17   tidelands renewal license.

18                  LIEUTENANT GOVERNOR GUADAGNO:   Just  
19   want you to know that I am meeting with the  
20   tidelands people every Friday afternoon since  
21   January 19th and you should see a flood of  
22   tidelands grants granted. I'll be attending the  
23   council meeting next month, because you're right,  
24   I was asked to sign a document that had a one year  
25   delay from the last known signature on the

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1   document and I just said no, and then I looked a  
2   little deeper and found about 300 pending  
3   tidelands grants, so that's done.

4                   MS. DANKO:   We just received their  
                    Page 76

5 tidelands renewal last year -- I'm sorry, last  
6 week.

7 LI EUTENANT GOVERNOR GUADAGNO: Is  
8 my name on the bottom of it?

9 MS. DANKO: It might be.

10 LI EUTENANT GOVERNOR GUADAGNO: Yes,  
11 it is.

12 MS. DANKO: I appreciate it.

13 LI EUTENANT GOVERNOR GUADAGNO: I  
14 mean, what happened there is just ridiculous.

15 MS. DANKO: Yes.

16 LI EUTENANT GOVERNOR GUADAGNO: I  
17 took your time. I apologize for that.

18 MS. DANKO: That's okay.

19 We're also proposing some  
20 reorganized language pertaining to marinas and  
21 docks to support development and redevelopment of  
22 these facilities, and also amend some of the  
23 dredging and dredged material management rules as  
24 the need for dredging of New Jersey's navigable  
25 waterways is so great, that it's impossible to

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1 calculate at this point.

2 In closing, marinas are water  
3 dependent and they need clean water and a healthy  
4 environment. As I said before, we work hard to  
5 protect our natural resources and unfortunately we  
6 face many regulations. Additional exemptions or

7 common sense alternatives should be allowed for  
8 water dependent construction, development, and in  
9 particular, environmental enhancements for  
10 recreational marine businesses. More importantly,  
11 the regulatory review process should consider and  
12 weigh, in a common sense approach, existing or  
13 detrimental environmental impacts versus the  
14 overall environmental improvements proposed as  
15 part of a development or redevelopment project at  
16 an existing marina. I have examples and I will  
17 include some of those examples in our written  
18 comments, but the DEP has denied many permits  
19 solely on the basis of, and most recently,  
20 providing public access or buffers or other  
21 unnecessary conditions for projects that would  
22 have otherwise provided a significant  
23 environmental benefit and at the same time  
24 enhancing water access and recreation. I'll  
25 include those examples in my comments.

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1 In closing, again, there has never  
2 been a more important time to support our  
3 industry. With increasing demands for water  
4 access, loss of marinas and marine businesses and  
5 the growing list of challenges facing our  
6 waterways and all the people in businesses and  
7 families that depend on them, New Jersey cannot  
8 afford to lose something that we can never

9 rebuild. We can never rebuild these facilities.  
10 It's extremely difficult to do that. Our proposed  
11 amendments represent a reasonable and balanced  
12 approach to addressing regulatory and permitting  
13 challenges and we respectfully ask for your  
14 consideration, and thank you, very much, for your  
15 time.

16 LI EUTENANT GOVERNOR GUADAGNO:

17 Thank you, very much.

18 Any questions?

19 COMMISSIONER MARTIN: We have your  
20 testimony, we'll take it into consideration. We  
21 should talk about some of the public access rules  
22 and start looking through those.

23 MS. DANKO: I plan on submitting  
24 some more. I didn't want to get more detailed  
25 with --

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1 LI EUTENANT GOVERNOR GUADAGNO: Send  
2 whatever you want.

3 MS. DANKO: We have some examples  
4 that I'll also submit. We've provided some  
5 extensive public access in terms of a letter I've  
6 submitted, so I'll provide those, as well.

7 COMMISSIONER MARTIN: Appreciate  
8 all of this. Thank you, very much.

9 LI EUTENANT GOVERNOR GUADAGNO:

10 Larry Nespoli of the New Jersey Council of County

11 Colleges, and on deck is Dave Pringle from the New  
12 Jersey Environmental Foundation.

13 MR. NESPOLI: Good afternoon,  
14 Lieutenant Governor, Members of the Committee, my  
15 name is Larry Nespoli. The Council of County  
16 Colleges is the state organization for New  
17 Jersey's 19 community colleges. Madam Chair, you  
18 know, of course, about Brookdale Community  
19 College. I would be remiss in not thanking the  
20 Legislative Member of your group, if I did not  
21 thank them for your past support of community  
22 colleges. With their support, colleges really  
23 are -- and I apologize for this brief commercial,  
24 but a great New Jersey success story. They now  
25 enroll 400,000 students each year. Thanks for the

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1 support.

2 My message is a very simple one. I  
3 actually had a chance to deliver the same message  
4 to Chief of Staff Rich Banker this morning, he was  
5 speaking in the State Chamber, had a few minutes  
6 with them. The message to him and the message and  
7 request to you now is please don't forget about  
8 community colleges in your looking for regulatory  
9 relief, and the tool kit ideas that the Governor  
10 talked about in his budget message, Banker talked  
11 some length about your efforts and the tool kit  
12 that the Governor is putting together with your



13 help. He spoke, of course, primarily about school  
 14 boards and municipalities and businesses, but he  
 15 certainly understood my points to him, that  
 16 community colleges, as local public employers,  
 17 need the same kind of looks to see a new tool kit,  
 18 and to that end, we've delivered two pieces of  
 19 paper to you. One is a one-pager, our priority  
 20 items, if you will, and then there's a longer  
 21 piece, I think, that we've distributed as well  
 22 that provides a little more at length and a longer  
 23 list of things that we offer for your  
 24 consideration, so thank you, very much.

25 LI EUTENANT GOVERNOR GUADAGNO:

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1 Thank you, very much. We'll be sure to include  
 2 that in the record. I have in front of me a  
 3 Proposed Tool Kit for Community Colleges, it's  
 4 8-and-a-half-by-14.

5 MR. NESPOLI: That's the shorter  
 6 piece. Barbara, did we --

7 LI EUTENANT GOVERNOR GUADAGNO:  
 8 That's all right. I'll make sure we have it.

9 MR. NESPOLI: The longer piece, as  
 10 well. Thank you, very much.

11 LI EUTENANT GOVERNOR GUADAGNO:  
 12 Thank you, very much. Appreciate it.

13 Dave Pringle, and on deck is Adam  
 14 Falk for the New Jersey Cable Telecommunications

15 Association.

16 Hello, Mr. Pringle.

17 MR. PRINGLE: Hi. Good afternoon.

18 My name is David Pringle. I'm the Director of  
19 Information at the New Jersey Environmental  
20 Federation for the state, and the national group  
21 is based in DC. We have 100,000 members in New  
22 Jersey, individual members, and additional members  
23 in groups. I'm also a resident of Cranford, New  
24 Jersey, in Union County. My house is on the  
25 Rahway River. We live there with my children and

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1 we get our drinking water from the Highlands, even  
2 though we're about 50 miles from the Highlands.  
3 My backyard flooded about 10 days ago and in  
4 the -- well, Cranford doesn't get their drinking  
5 water from Rahway, from the City of Rahway, it  
6 goes further downstream. Those of you who know  
7 Rahway probably had a little bit of an if factor,  
8 thinking somebody would use that as their drinking  
9 water source, I raise this, and the decision made  
10 in Cranford was the drinking water and flooding in  
11 Rahway, just the same way as the development  
12 decisions in Springfield and West Orange and  
13 Millburn impact flooding in Cranford and Rahway  
14 and the drinking water in Rahway. I raise this or  
15 introduce it this way, because of the law of  
16 unintended -- one person's red tape is another

17 person's common sense principle. When DEP  
18 mandates street cleaning or leaf pick up in  
19 another town, like West Milford, and at West  
20 Milford's expense, folks at West Milford also will  
21 say that's an unfunded mandate, that rule needs to  
22 be modified or whatever. However, the folks in  
23 the Town, Town of Wayne benefit from less funding,  
24 from cleaner drinking water. Should the folks of  
25 Wayne have to sway West Milford to not flood their

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1 backyards and not contaminate their drinking  
2 water? Similarly, should Senator Buono's  
3 constituents or Senator Oroho's constituents not  
4 to contaminate their drinking water? While the  
5 state rules that regulate all this may not be  
6 perfect, that is their intent, and I know it's not  
7 this task force's intent to very much appreciate  
8 the Governor's intent, the Governor's repeated  
9 positions that this isn't a race to the bottom,  
10 but while it's not the intent, if we're not very  
11 careful the result of reducing red tape "cost  
12 benefit analysis" applying more to federal  
13 standards and the like could have that unintended  
14 result, so we urge folks to really get into the  
15 weeds here before we start changing things because  
16 of the unintended consequences and such. To that  
17 end, in doing that, that requires a lot of  
18 resources at a time we don't have any. In

19 particular, if DEP has two economists, if we're  
20 going to do cost benefit analysis, and I know it's  
21 the Commissioner's intent to do so, and the  
22 Governor's, we need a lot more economists, if not  
23 only to predict the cost of benefits, regulating  
24 and not regulating, but also the cost of public  
25 health. The ecosystem services we provided are

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1 lost if we don't protect resources. New Jersey  
2 has three of the largest industries and all very  
3 well rely on pharmaceutical manufacturing, tourism  
4 and food processing. Folks don't realize how much  
5 food processing occurs in New Jersey. Anheuser  
6 Bush is in Newark because of the Highlands water.  
7 The food is all throughout the Highlands and rely  
8 on Highlands water, and food processing and  
9 pharmaceuticals are two of the few really strong  
10 manufacturing businesses in New Jersey and it's  
11 because of the clean water we have in this state.  
12 If we're not careful we're going to lose it.  
13 That's the intent of the Highlands Act.

14                   The North Jersey Water Supply  
15 Commission in 2004 turned it around. The  
16 Highlands estimated that if we didn't protect the  
17 Highlands, it would cost an additional \$100  
18 billion in treatment costs alone over the next 50  
19 years, for their service area alone, and their  
20 service area is a fraction of the Highlands, which

21 is a fraction of the state, so we're going to have  
 22 to invest in the economist to understand the cost,  
 23 we're going to have to invest in the economist,  
 24 which we haven't been doing for years now in New  
 25 Jersey, to be able to understand the benefits of

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1 regulating and non-regulating. New Jersey has the  
 2 worst air quality, and this state overall in the  
 3 country, we have the worst water volume. Although  
 4 we made a lot of improvements, we were increasing  
 5 with our population density with the closest state  
 6 to build out. We obviously have heavily  
 7 industrialized paths. We need to be even more  
 8 careful with our regulations. We have to be very  
 9 careful. While this night I'm convinced it's not  
 10 the intent of this Commission, some before you, it  
 11 is their intent to weaken environmental health  
 12 protections, so I'd just like to close with a few  
 13 examples of things where some rules can and should  
 14 be modified or further protected.

15 The Governor talked during the  
 16 campaign about the need to reduce diesel  
 17 pollution. With the special exception of tobacco  
 18 smoke and radon diesel pollution, this is some of  
 19 the clearest science we have to saying this  
 20 particular pollutant causes this particular health  
 21 effect, and at a very significant degree. Issuing  
 22 an Executive Order to reduce these, requiring

23 state contractors to retrofit their engines, when  
 24 we're doing these projects, DEP is estimating,  
 25 safe to say we avoid dozens of premature deaths

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1 every year with one simple Executive Order. The  
 2 Drinking Water Quality Institute which I served on  
 3 until Speaker Roberts dumped me on his last day in  
 4 office two months ago advised the DEP, I think he  
 5 made some reverse decisions, but anyway, I  
 6 regressed --

7 LI EUTENANT GOVERNOR GUADAGNO:

8 Really?

9 MR. PRINGLE: That's my  
 10 interpretation. In any case, that Institute  
 11 recommended to DEP two years ago to update, as  
 12 required by the state, the Safe Drinking Water  
 13 Act, several standards of drinking water in  
 14 several percentages of drinking water. We looked  
 15 at the latest science of all the set standards,  
 16 all had standards, we looked at the latest -- and  
 17 science is constantly evolving, but most of these  
 18 chemicals looked at were 20 years ago. We made  
 19 changes to about half the chemicals and we looked  
 20 at 20-something, we thought the current standard  
 21 was appropriate. For a few, we thought they  
 22 needed to be straightened. For a few others, they  
 23 need to be less --

24 LI EUTENANT GOVERNOR GUADAGNO: Mr.

25 Pringle, I have to interrupt you. Let me tell you

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1 why, because there's a gentleman over here, your  
2 left, over your left shoulder that I cut off at  
3 five-and-a-half and if I don't cut you off he's  
4 going to stand up and yell at me, and his last  
5 name is Wolfe, so --

6 MR. PRINGLE: I don't want a  
7 feature on his website.

8 LI EUTENANT GOVERNOR GUADAGNO:  
9 Sorry.

10 MR. PRINGLE: That's all right.

11 LI EUTENANT GOVERNOR GUADAGNO: I do  
12 need a list of those rules and regulations to make  
13 sure that --

14 MR. PRINGLE: I will write this up,  
15 and there is a series of things that need to go  
16 further to get the job done.

17 LI EUTENANT GOVERNOR GUADAGNO:  
18 Thank you. We will be sure to reach out to you so  
19 we can have that with us. I appreciate it, and  
20 again, I apologize for cutting you off.

21 COMMISSIONER MARTIN: Thanks.

22 LI EUTENANT GOVERNOR GUADAGNO: Adam  
23 Falk, New Jersey Cable Telecommunications, and on  
24 deck is Ulises Diaz and Ava-Marie Madeam at  
25 Verizon.

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1 MR. FALK: Lieutenant Governor, Liz  
2 Murray and I were intending to testify together.  
3 We signed up separately because we came  
4 separately. Is that all right, if we --

5 LIEUTENANT GOVERNOR GUADAGNO:  
6 Absolutely. Not a problem at all.

7 MR. FALK: Good afternoon,  
8 Lieutenant Governor, distinguished Legislators,  
9 Commissioners, Members of the Panel. My name is  
10 Adam Falk and I'm here on behalf of the New Jersey  
11 Cable Telecommunications Association, joined by  
12 Liz Murray. We are representatives of Cablevision  
13 and Comcast, respectively.

14 Our trade organization represents  
15 about 2.3 million of the 2.6 million cable  
16 households in the state, and we appreciate the  
17 opportunity to be here to testify. We appreciate  
18 the Governor's Executive Order and the goal,  
19 support the goal of amending or rescinding rules  
20 that are unnecessary and ineffective or that  
21 impede economic growth. We have three specific  
22 recommendations that we would like to make. They  
23 involve the issues of modifying rules, changing  
24 enforcement practices and changing the process by  
25 which we go through rule-making. Modifying the



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1 Board's rules applicable to the cable industry in  
2 light of the highly competitive cable landscape  
3 that exists today in video services, we would like  
4 to see them take the rules that exist today and  
5 essentially limit them, except where there are  
6 those that involve explicit state or federal  
7 requirements, and/or to remove rules in situations  
8 where we are subject to the federal standards of  
9 effective competition. In terms of enforcement,  
10 we'd like to see an adjustment of the present  
11 enforcement policies and practices to align them  
12 with the goals of the Executive Order No. 2 to  
13 cultivate an approach that values performance  
14 based outcomes and compliance over the punitive  
15 imposition of penalties for technical violations  
16 that don't result in negative impacts to the  
17 public health, safety and welfare. Specifically,  
18 we'd like to see them -- we'd like to see you  
19 eliminate good faith and minor technical rule  
20 violations, exempt them from enforcement, and  
21 quite frankly, to establish notice and opportunity  
22 to cure provisions prior to commencing enforcement  
23 action. Third, we'd like to see you review the  
24 rule-making process itself by inviting more  
25 stakeholder input and participation, to see the

1 release of rules in draft form prior to moving  
2 them through the formal administrative review  
3 process, and we'd like to see a reopening of the  
4 Chapter 18 rules, the operational rules that deal  
5 with our industry immediately so that we don't  
6 have to wait for the next five year sunset of the  
7 rules prior to seeing those changes made.

8 I don't have to tell you that cable  
9 companies are a big employer here in the state.  
10 We employ more than 10,000 people. We contribute  
11 significantly to the economy here in the state and  
12 we have continued to grow and expand our  
13 businesses to invest in the state, and really in  
14 the face of very stiff and unprecedented  
15 competition. Despite really vast changes in  
16 competitive landscape that exists for cable  
17 companies in the state, the rules for practice  
18 have not, have not kept up with the pace of  
19 competition, and we are largely regulated in the  
20 same way that we have been over the last 30 years  
21 despite these changes, despite the fact that there  
22 is direct broadcast satellite competition that is  
23 unregulated, completely unregulated in the state.  
24 Rules that were created in the year of limited or  
25 no competition don't make sense in today's

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1 marketplace. With competition, customers have the  
2 opportunity to vote with their feet. If they're

3 unhappy with one operator's service, they can  
 4 simply pick up and move to a new provider.  
 5 Operator's behavior is, therefore, constrained by  
 6 the potential economic impact of customer  
 7 defections rather than the fear of regulations or  
 8 enforcement. Nonetheless, the rules have not, in  
 9 our view, and the processes have not created  
 10 adequate results. At least five times since 2002  
 11 our industry has sought a more balanced regulatory  
 12 approach and offered specific recommendations to  
 13 change the cable rules, but none of these have  
 14 lead to meaningful reform.

15 I think I'll turn it over there,  
 16 let you --

17 MS. MURRAY: Thank you.

18 Our primary concerns are  
 19 unnecessary regulations takes us away from our  
 20 mission, which is delivering value to our  
 21 customers and first rate services to our  
 22 customers, so to the extent we are complying with  
 23 rules that require -- in the case of one of our  
 24 member companies, the filing of 35,000 pages of  
 25 reports in a single year. That means that those

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1 people and those resources are not doing things  
 2 that assist our customers.

3 LI EUTENANT GOVERNOR GUADAGNO:

4 That's with the BPU?

5 MS. MURRAY: Yes, and there's  
6 uneven application if they're not permitted to  
7 regulate DBS, direct broadcast satellite, under  
8 federal rules, so the consequence with satellite  
9 regulations, they are not -- and we're companies  
10 who work here, employees, the ones paying taxes,  
11 and our DBS competitors, as we're the -- it's to  
12 not have the same kind of presence in the state.  
13 Over regulations, as you all know, this is new  
14 entrance in another market but it also has the  
15 effect of forcing us to look at other places to  
16 deploy or roll out new services and new products,  
17 because we can do it without the kind of burden  
18 some rules and notices require and so forth, that  
19 we see here. We're in 39 states, so we have other  
20 opportunities to do PILOT programs and those kind  
21 of things without being so burdened. A prime  
22 example is that we cannot relocate business  
23 offices. Where customers come in to pay or  
24 exchange convertors and pay their tax -- without  
25 BPU approval, and sometimes that can take years,

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1 and the consequence often is that we are in a  
2 position where we have two offices open at the  
3 same time or we're not able to make decisions  
4 based on the needs of our customers. We need to  
5 move to a larger location, that sort of thing, and  
6 we are very concerned even about enforcement. We

7 are frequently fined, \$10,000 is the standard fine  
8 for us for things like filing things late. Those  
9 administrative kinds of enforcement are not  
10 productive and it doesn't do anything to protect  
11 consumers or to improve the state's commission.  
12 In contrast, if you look at some other agencies,  
13 child labor laws carry a penalty up to 2,500 now,  
14 so those thoughts are things we think are a bit  
15 out of whack. We appreciate what that DEP has  
16 done, more staple meetings, but we'd like to see  
17 them become more productive in the recognition of  
18 the market that exists in our industry.

19 LI EUTENANT GOVERNOR GUADAGNO: Any  
20 questions?

21 ASSEMBLYMAN RUMANA: One question.  
22 I'm not being a wise guy, I'll qualify this, but  
23 if all these regulations were amended would the  
24 cable bill come down? Because I have to tell you,  
25 I'm paying more than \$1,200 per year and I only

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1 have cable, nothing else, no internet, no phone,  
2 just what comes on that television, \$1,200 a  
3 year. It's ridiculous to be paying that kind of  
4 money, and again, I'm not being a wise guy, but  
5 how do we go get those bills down? Because the  
6 average person clearly wants to know how they can  
7 have something that they can watch on TV without  
8 spending through the nose every year for the

9 service.

10 MR. FALK: I think, I mean, I hear,  
11 I hear your complaint. I think, I think customer  
12 service needs to comply and respond to rules that  
13 are administratively burdensome and ultimately are  
14 pulling back customers.

15 ASSEMBLYMAN RUMANA: To bring the  
16 fees down would be my first question, because the  
17 consumers are the people that we represent. At  
18 the end of the day, that's what they want, they  
19 want the service to be provided, so failure to be  
20 fixed right away -- but the other side is not  
21 paying fees that increase, you know, every six  
22 months to a year you're turning around, you're  
23 paying more money. I'm trying to stop that from  
24 happening to someone. I'm certainly interested in  
25 that, as I'm sure the other Members of this

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1 Commission are also interested.

2 MR. FALK: I think the rates and  
3 things, obviously the ordinary consumer is  
4 concerned about. I think we have, through our  
5 innovation technology, been able to create triple  
6 play packages that include voice services,  
7 internet services and video services. Combined,  
8 we offer a package for under \$90 a month for all  
9 three services. I can remember the day my phone  
10 bill was \$100 just for phone service, so I do hear

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11 what you're saying and, you know, it is a  
12 difficult economic time and people are concerned,  
13 ensuring that they're getting adequate value for  
14 what they are receiving, but I think the  
15 investment that cable companies have made in  
16 technology, the opportunities to go off the  
17 competition, in voice services, for example, you  
18 can get for \$25 a voice service, that's all you  
19 need, you can stay on the phone for 24 hours, 24  
20 hours a day, seven days a week if you want for \$25  
21 or \$30 a month. It provides more value, but I do  
22 think that some of these rules can be changed, in  
23 that it does have an impact on the bottom line of  
24 the customers. In the last decade alone cable  
25 customers -- I mean cable companies have had to

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1 settle enforcement actions at the Board of Public  
2 Utilities that have been upwards of about  
3 \$2-and-a-half million in fines that we have paid  
4 for many of the things that Liz was talking about  
5 that seem to be minor or technical violations and  
6 we think with more notice and opportunity to cure  
7 and a more business friendly approach, that we can  
8 address customer needs and offer more value to our  
9 customer.

10 ASSEMBLYMAN RUMANA: Thank you.

11 Thank you.

12 LI EUTENANT GOVERNOR GUADAGNO:

13 You're going to scare people away if you start  
14 asking that question. All right. Thank you, very  
15 much. Anybody else? I appreciate it. Thank you,  
16 very much.

17 MR. FALK: We've submitted real  
18 detailed written testimony that we provided here  
19 in this paper.

20 LI EUTENANT GOVERNOR GUADAGNO:  
21 Testimony of Adam Falk and Elizabeth Murray on  
22 behalf of the New Jersey Cable Telecommunications  
23 Association, dated today.

24 MR. FALK: Thank you.

25 LI EUTENANT GOVERNOR GUADAGNO:

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1 Thank you, very much, for that. Now Verizon,  
2 speaking of telecommunications.

3 MS. DIAZ: Members of the  
4 Committee, I'll be brief. You have extreme  
5 substance here, and cable guys and us don't  
6 usually agree, but I will say today I agree with  
7 most of what he said. Competition is the key in  
8 this environment. We are a fully competitive  
9 industry, whether it's video, whether it's  
10 telecom, whether it's broadband, and we are still  
11 treated, you know, as an industry, as a monopoly  
12 or company. We have hundreds of regulations that  
13 no longer apply, that make no sense with filings  
14 and so on and so forth that I'll talk about. We



15 know that the trend in this industry moving  
16 forward in other states is to move towards a  
17 competitive environment. That's a big, broad  
18 word. It means dealing with some social  
19 obligations and all that stuff, but the long and  
20 short end of it is as you move to the competitive  
21 environment, I'll lose the wireless. The Board  
22 doesn't tell us where to put the store. The  
23 Board doesn't tell us what our bill should look  
24 like so on and so forth. Prices have gone  
25 considerably down, down, down and so we are

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1 looking for free market opportunity, and I think  
2 that I have little sentiment of my cable brother.  
3 With that, I'll introduce Ava-Marie. She's going  
4 to hit some key issues.

5 MS. MADEAM: Good afternoon. Hi.  
6 My name is Ava-Marie Madeam. I am the VP of  
7 Verizon New Jersey.

8 LIEUTENANT GOVERNOR GUADAGNO: Can  
9 you hear? Yes, okay.

10 MS. MADEAM: I would say a critical  
11 element of New Jersey's economic platform should  
12 be the elimination of the contradictions that  
13 currently exist in the rules and regulations that  
14 pertain to cable companies and telephone companies  
15 in New Jersey. Furthermore, the outdated rules  
16 that are remnants of the monopoly era and go

17 beyond federal standards and Legislative intent  
18 really should be eliminated. They simply have no  
19 reason in a competitive environment.

20 LI EUTENANT GOVERNOR GUADAGNO:

21 Because I am a public servant, but a lazy one, I'm  
22 going to ask you list those contradictory or  
23 outdated regulations in your testimony that you  
24 submitted here. I'm going to pray that you do.

25 MS. MADEAM: Yes. We also

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1 submitted an appendix. It has a more  
2 comprehensive list of rules and regulations.

3 LI EUTENANT GOVERNOR GUADAGNO:

4 Thank you. Love it when somebody else does my  
5 work for me.

6 MS. MADEAM: Other rules that we  
7 are currently subject to are simply applicable or  
8 necessary that result in insignificant  
9 administrative burdens and basically stifle  
10 business. The high cost of complying with these  
11 direct sources could be better invested back into  
12 our company and ultimately New Jersey's economy,  
13 so I'm going to highlight a few examples of some  
14 of these rules that really don't have a place in  
15 today's competitive environment.

16 The first such rule is the  
17 prohibition against late payment charges. This  
18 rule is perfect example of asymmetric resolution.

19 This rule currently prohibits Verizon and others  
20 from assessing late payment charges on --

21 LI EUTENANT GOVERNOR GUADAGNO: I  
22 don't know if this panel's going to be able to do  
23 anything at all on that. Let's think.

24 MS. MADEAM: Basically, late  
25 payments by customers impose significant

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1 administrative burdens and carrying costs on  
2 companies like Verizon who are unable to recover  
3 these costs through a rate case filing, so other  
4 utilities like gas, electric, water are currently  
5 rate of return regulated and have the ability to  
6 recover some of these costs through their regular  
7 rate filings. We have not been rate of return  
8 regulated for 25 years and have not filed for that  
9 long, so there's no avenue for us to recover these  
10 types of costs. Right now I think, you know, most  
11 people will pay their credit card bill before they  
12 pay the Verizon bill. The delinquency rate is  
13 nine times greater than a credit card company, so  
14 it's just a cost that we keep absorbing and, you  
15 know, quite frankly, we are subject to this rule  
16 and the cable guy is more or less subject to a  
17 similar prohibition on the late payment charges.

18 SENATOR BUONO: How would you  
19 quantify that cost and what do you attribute --  
20 what are the costs? Separate out what you

21 attribute to the costs that you have to absorb as  
22 a result of what you just described.

23 MS. MADEAM: There are costs  
24 associated with the folks that are not paying  
25 their bills and that, in turn, leads to us maybe

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1 increasing lists for certain services, because  
2 we're trying to compensate for, you know, not  
3 getting those monies from customers who are just  
4 consistently --

5 SENATOR BUONO: If somebody pays  
6 you a month late you have to increase rates?

7 MS. MADEAM: No. No. I'm not  
8 saying that, but it's just over -- we've been  
9 subject to this rule for forever, so it's over  
10 time, as we -- you know, we can't recover rates or  
11 these costs from other customers, then, you know,  
12 it's kind of the good suffering from the bad.  
13 That's what happens.

14 The next one I'd like to discuss is  
15 tariff filings. Despite the highly competitive  
16 nature of New Jersey's market, telecom companies  
17 still must file tariffs for competitive services,  
18 so unlike similar data that's provided by water,  
19 gas and electric utilities, however, BPU does not  
20 provide access to these tariffs via their website,  
21 so we wonder, what's the sense for these filings  
22 because it's not being readily available to

23 customers, and we currently provide these filings  
24 on our website and they always will be accessible  
25 to customers, so we just say that this is

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1 requirement that has outlived its right.

2               The next one is the non financial  
3 reporting requirements, so this rule requires  
4 semi annual reporting of detailed levels, excuse  
5 me, competitive information and goes well beyond  
6 similar requirements at the federal level and is  
7 duplicative of other information that we currently  
8 provide to the BPU. The data provided is also of  
9 diminishing value because consumers are moving to  
10 regulated services and provided by providers with  
11 wireless carriers and cable companies.

12              The next one I'd like to discuss is  
13 the definition of complaint in the cable, so this  
14 rule is a vague and overly broad definition of  
15 complaint and it potentially encompasses nearly  
16 every customer's interaction with a cable  
17 company. That makes it very difficult for our  
18 customer service reps to know, or know whether our  
19 customer contacts really fall within this  
20 definition.

21              The last one, which Adam touched  
22 on, is the relocating office rule that we're  
23 subject to on the cable side. Currently, cable  
24 operators must file for BPU approval before a

25 local customer service office can be moved.

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1 However, we don't file for similar approval when  
2 we -- when our office first opened, so it doesn't  
3 seem to make sense to us why we should file for  
4 approval once it closes, if you didn't file for  
5 approval once it opened.

6 LI EUTENANT GOVERNOR GUADAGNO: That  
7 makes sense. That makes sense. Thank you, very  
8 much. I appreciate your testimony. We'll get  
9 this over to the BPU, too. Thank you.

10 MS. MADEAM: Thank you.

11 LI EUTENANT GOVERNOR GUADAGNO: Let  
12 me make sure, Kristin Wildman from Lomax. On deck  
13 is Richard Patterson from Lorton Resorts.

14 (A brief recess was taken.)

15 LI EUTENANT GOVERNOR GUADAGNO: All  
16 right. Sorry for the interruption.

17 MS. WILDMAN: That's okay.

18 Lieutenant Governor and Red Tape  
19 Review Panel, I am Kristin Wildman from Lomax  
20 Consulting Group, an environmental consulting firm  
21 in Cape May County. We've worked with both the  
22 public and private sector for 35 years. We've  
23 worked through regulatory programs of the DEP, the  
24 Pinelands Commission and other regulatory state  
25 and federal agencies.

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1 I appreciate the opportunity to  
2 testify to the panel on behalf of four development  
3 groups that are being adversely impacted by the  
4 breakdown of the rule-making process. This  
5 relates specifically to the urban redevelopment of  
6 the City of Wildwood and providing hotel rooms in  
7 support of tourism and the state operated  
8 Wildwoods Convention Center. While the train of  
9 events have been chronicled in the attached  
10 testimony, I will summarize the problem and the  
11 request to resolve this issue.

12 Over the course of the last 10  
13 years, Wildwood has lost 5,000 hotel and motel  
14 units as a result of condominium conversions.  
15 During this period the Wildwood Convention Center  
16 has found that it cannot sustain adequate  
17 occupancy because of the lack of year-round,  
18 updated room stock. As such, the business  
19 community was encouraged to invest in the  
20 community and provide a more high intensity  
21 high-rise development. Nine developers initiated  
22 the process and attained municipal approvals. The  
23 first one out of the gate that went to DEP  
24 received a denial. In 2006 both the developers  
25 and the legislators of our county met with then

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1 Commissioner Lisa Jackson. She had indicated that  
2 the issues would be worked out within 90 days.  
3 The Department directed the City of Wildwood to  
4 update its Master Plan prior to approving any of  
5 these high-rise projects. The city conducted  
6 studies and public hearings and finalized its  
7 update in full consultation with DEP. Once the  
8 update had been completed, DEP then directed the  
9 city to modify its land use ordinances required to  
10 implement the newly updated Master Plan. During  
11 this extended negotiation and review process with  
12 DEP, several of the nine locally approved projects  
13 lost their underlying agreements and financing.  
14 Two of the high-rise hotel projects completed  
15 their design consistent with the city's Master  
16 Plan update and ordinances and they have received  
17 CAFRA approvals. The financiers and developers  
18 determined that the excessive parking requirement  
19 of the DEP, the two parking spaces per unit,  
20 including lock-out unit, render these projects  
21 infeasible. The cost of construction could not be  
22 supported by the projected revenues.

23                   Accordingly, negotiations were  
24 undertaken with the DEP to revise the Coastal Zone  
25 Management Rules, the traffic rule to reduce the

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1 parking requirement for the hotel development and  
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2 on January 20, 2009 a proposed amendment was  
3 published in the New Jersey Register which would  
4 require one parking space for units that were 650  
5 square feet and less. Consistent with the state  
6 regulations, the proposed rule went through the  
7 public comment period and the governmental  
8 review. The proposed rule was required to be  
9 signed by the DEP Commissioner and then received  
10 by the Office of Administrative Law within one  
11 year of that proposal, or by January 20th, 2010.  
12 As the deadline approached, we were assured by DEP  
13 that once the Governor signed off on this rule,  
14 that DEP would then provide signature and the rule  
15 would be passed. Traffic rule amendment was  
16 signed off by then Governor Corzine but was not  
17 adopted by the DEP in the required time frame.  
18 DEP indicated that the rule would be signed by the  
19 new DEP Commissioner appointed under the new  
20 Christie Administration. It was also assured by  
21 the administrative staff of DEP that this rule  
22 expiration would be extended.

23 Governor Christie's Executive Order  
24 No. 1 indicated that the expiration date of any  
25 administration regulation or rule that would

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1 otherwise expire between January 20 and April 18,  
2 2010 is extended under the completion of the  
3 review by the panel. The DEP traffic rule is

4 listed under the Executive Order as one of the  
 5 frozen rule proposals. However, DEP has published  
 6 a notice of extension or reopening of comment  
 7 periods and informal stakeholder meetings for  
 8 pending DEP proposals suspended under Executive  
 9 Order No. 1, and this rule is not listed in that  
 10 proposal and is, in fact, listed on DEP's website  
 11 as expired.

12 Significant private investment in  
 13 the redevelopment of the City of Wildwood and the  
 14 support of the Wildwoods Convention Center has  
 15 been made based upon city and DEP approvals. The  
 16 city has met its obligations. DEP has delayed the  
 17 process and reneged on the agreement to adopt the  
 18 rule within the deadline.

19 There are four projects currently  
 20 relying on the DEP's commitment to adopt this rule  
 21 amendment. Two have CAFRA permits and two others  
 22 have made significant investments to prepare plans  
 23 and applications for hotels consistent with the  
 24 modified traffic rule. The developers seeking  
 25 guidance and support to correct the expiration of

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1 the rule-making process and requesting aid and  
 2 guidance in adopting the amended traffic rule as  
 3 soon as possible to avoid the loss of the hotels  
 4 in the Wildwoods.

5 LI EUTENANT GOVERNOR GUADAGNO:  
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6 Thank you.

7 COMMISSIONER MARTIN: Can I ask two  
8 questions?

9 LIEUTENANT GOVERNOR GUADAGNO:

10 Okay. Yes. We're going to take your testimony  
11 next.

12 COMMISSIONER MARTIN: Did your  
13 organization or anyone come to us prior to the  
14 expiration of these rules? I mean since the new  
15 administration.

16 MS. WILDMAN: Yes. We spoke with  
17 two different representatives of the DEP at the  
18 administrative levels.

19 COMMISSIONER MARTIN: Who?

20 MS. WILDMAN: Tom McKay and Scott  
21 Baker, and they assured us it would be signed off  
22 by the Governor and it would be approved by  
23 January 20th.

24 COMMISSIONER MARTIN: By January  
25 20th, right.

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1 Okay. But since then have we made  
2 contact?

3 LIEUTENANT GOVERNOR GUADAGNO:

4 January 20th being the day after he was sworn in?

5 COMMISSIONER MARTIN: The day I  
6 took office in there.

7 MS. WILDMAN: Right.  
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8 COMMISSIONER MARTIN: So what's  
9 happened since? Have you guys come back to us?

10 MS. WILDMAN: We've been told that  
11 because DEP has been -- has it listed as expired,  
12 that the panel may not be able to overturn that  
13 because it's within the specific department's  
14 rules.

15 LIUTENANT GOVERNOR GUADAGNO: Why  
16 don't I assure you that we'll --

17 COMMISSIONER MARTIN: We'll take a  
18 look at that and we'll try and -- I want to make  
19 sure that I understand the situation.

20 MS. WILDMAN: I appreciate it.

21 COMMISSIONER MARTIN: One other  
22 question for you. It's been recommended to us  
23 that some of these rules potentially, we can at  
24 least consider, you know, having some of these  
25 rules be implemented at the local level. Does

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1 that make sense or not make sense in how it would  
2 work?

3 MS. WILDMAN: That would make a lot  
4 of sense in Wildwoods' case. The municipalities  
5 follow the RSI standards, which are accepted by  
6 the state as adequate parking standards. The  
7 DEP's requirements are two per unit, plus any  
8 public parking that existed on the site had to be  
9 replaced, and the financiers of these developments

10 are backing out because of the these parking  
11 requirements.

12 COMMISSIONER MARTIN: As long as we  
13 set the rules and we check and we have the  
14 verification process in place, and all the rest  
15 that you think would work in the local level,  
16 obviously you have -- if you have problem with it  
17 you can go to back to DEP or the court to sort it  
18 out.

19 MS. WILDMAN: The municipalities  
20 should know their parking requirement better than  
21 the state level should, so they should have a  
22 better grasp with that.

23 COMMISSIONER MARTIN: Thank you.  
24 We appreciate it.

25 MS. WILDMAN: I appreciate it.

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1 Thank you.

2 LI EUTENANT GOVERNOR GUADAGNO:  
3 Anybody else?

4 Thank you, very much. We  
5 appreciate it.

6 Mr. Patterson, okay. I take it,  
7 Mr. Patterson, Martinique Resorts, LLC.

8 MR. PATTERSON: Lieutenant Governor  
9 and Red Tape Review Panel, my name is Richard  
10 Patterson of Margate, New Jersey. I am testifying  
11 on behalf of the Margate Resorts proposed

12 high-rise hotel in Wildwood. I think my  
13 presentation will be more of a micro rather than  
14 macro point of view. Thank you for the  
15 opportunity to provide input on this very  
16 important topic of regulatory reform.

17 I am compelled to present the  
18 experience of my partnership regarding the failure  
19 of the regulatory process. My investment group  
20 acquired property and proposed high intensity  
21 development to address Wildwoods' needs and vision  
22 of economic revitalization. Over and above the  
23 cost of the property, an investment of over \$2  
24 million was paid to obtain required permits,  
25 approvals and carrying costs. Due to the extent

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1 of the delays, we are now at five-and-a-half years  
2 since the inception of the project. Accompanying  
3 me today is one of my partners who turned 80 on  
4 St. Patrick's Day. We're hoping that he's still  
5 alive to see the implementation of this project.

6 The current parking standard  
7 provided within our permit is higher than anywhere  
8 in the industry and was the key issue preventing  
9 investors from bringing the project to reality.  
10 More than a handful of brand name hotel chains  
11 have walked away from our project because of the  
12 current DEP parking standards, and this was before  
13 the market collapsed. To make this point clearer,

14 the RSIS standards which were adopted by the state  
15 after extensive research and studies would require  
16 292 parking spaces for our project. Under DEP  
17 guidelines, our permit requires 686 parking  
18 spaces, a 235 percent increase. Even under the  
19 new traffic rule, we would need 567 spaces or 194  
20 percent over RSIS standards. In a face to face  
21 meeting with DEP staff at the start of our permit  
22 process we were flatly told they wanted enough  
23 spaces so that there would be no parking problems,  
24 even on Labor Day and the 4th of July. Please  
25 understand, in addition to providing parking for

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1 employees, the restaurant retailers and 48 spaces  
2 for non hotel related public spaces thrown in for  
3 good measure, we had to anticipate 100 percent  
4 occupancy with every hotel unit for two cars, four  
5 cars per unit if one of the bedrooms had an access  
6 door to the hallway. Once Wildwood had updated  
7 its Master Plan in collaboration with full  
8 approval of DEP, we modified our permit  
9 applications to comply with RSIS standards  
10 included in the Master Plan. We received an  
11 almost immediate response from DEP, that if we  
12 drew our modifications and proceeded with our  
13 original application, they would adopt the traffic  
14 rule. Our consultant told us DEP was under  
15 pressure to finish the permits because all of

16 their requirements had been met, now the DEP can  
17 say they approved it, even though the owners were  
18 too onerous to proceed, and then they reneged on  
19 the project.

20 You have heard what's been  
21 presented by Miss Wildman on behalf of our  
22 collective group of developers in hopes this panel  
23 can aid and correct the actions by the DEP. We  
24 are asking the panel, since you have extended the  
25 traffic rule, to recommend to the Governor that he

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1 direct the DEP to adopt this rule without further  
2 delay. We have made an investment in tourism in  
3 New Jersey, one of the prime drivers of the  
4 state's economy between our project and that of  
5 the Morey family, the first two to receive traffic  
6 permits, one of the potential \$400 million capital  
7 improvements to the Wildwoods, along with the  
8 related construction jobs and permanent jobs and  
9 the corresponding ripple effect of everyone else  
10 in the resort area. Wildwood ran with permits to  
11 nine high-rise developments in their tourist  
12 area. Millions of the dollars were spent on  
13 plans, revisions and study after study, while the  
14 Morey's project and ours went through the CAFRA  
15 permit process as guinea pigs. Many of the other  
16 projects have since gone bankrupt or given up  
17 because of the unnecessary delays and un-kept



18 promises. I feel this may have been the next to  
 19 go. The correction of this problem will be a long  
 20 way off in sending the message that New Jersey is  
 21 open for business and they can rely on Executive  
 22 representation made by the DEP.

23 While my objective here today is to  
 24 get the traffic rule enacted, I have been asked to  
 25 describe other road blocks in catch-22 situations

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1 put our way by the DEP.  
 2 Under the current rule, we need to  
 3 purchase 132 off-site parking spaces from proposed  
 4 South Jersey Transportation Authority parking  
 5 structure to be constructed in Wildwood. At  
 6 17,500 per space, we will pay over \$2.3 million  
 7 for spaces we would never use. DEP's original  
 8 proposal was that these off-site parking spaces  
 9 would be deed restricted for our use only.  
 10 Imagine two or three hotels in our situation.  
 11 Half of our spaces on-site will remain empty and  
 12 almost 400 spaces, no one could use at the  
 13 municipal facility. Even if we did buy spaces in  
 14 the proposed parking garage, we could not get our  
 15 CO until that garage got its CO. We have no  
 16 control over when or if that garage could be  
 17 built. We could build the structure and let it  
 18 sit there. A portion of our land was purchased  
 19 from a private party who operated a 48 space

20 surface parking lot. DEP rules even require, even  
 21 though this is private, you had to include 48  
 22 parking spaces in our parking structure. Even if  
 23 we built a string of multi-family houses on this  
 24 lot, we would have to provide 48 public parking  
 25 spaces. This rule was overturned by the courts,

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1 however, DEP refused to delete it from our permit  
 2 application. Our process was complete more than a  
 3 year ago, just awaiting signature. We still do  
 4 not have that signature.

5 I appreciated the time you've  
 6 allotted me and thank you for listening to my  
 7 frustration.

8 LIEUTENANT GOVERNOR GUADAGNO: I'm  
 9 not going to comment on that.

10 COMMISSIONER MARTIN: Let me find  
 11 out what's going on. It's that simple. We're new  
 12 at this.

13 MR. PATTERSON: Thank you. We are  
 14 running out of time.

15 LIEUTENANT GOVERNOR GUADAGNO: What  
 16 you heard earlier, the testimony earlier about  
 17 one-stop shopping, this is exactly the type of  
 18 problem that we had. That one-stop shop, he could  
 19 go and register the complaints to the  
 20 regulatory, but then I don't want to say it won't  
 21 happen, but I would hope it wouldn't happen.

22 MR. PATTERSON: It is getting to  
23 the point, after five-and-a-half years, we don't  
24 have much time. There are significant investors  
25 in the wings that we will lose shortly. We can't

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1 start this process over, as DEP has told us, start  
2 again for the six month process. We need this  
3 traffic rule implemented immediately.

4 Thank you.

5 ASSEMBLYMAN RUMANA: If I may, just  
6 quickly, that's the horror story that you hear  
7 over and over again, and I can tell you, I know  
8 the Commissioner, the Economic Assistant that he's  
9 appointed is certainly the step in the right -- a  
10 big step in the right direction.

11 Just one quick thing. Did they  
12 ever tell you why they wanted all the additional  
13 parking? It seems completely contrary that  
14 every --

15 MR. PATTERSON: I asked that  
16 question at the original meeting. I said RSIS  
17 standards are backed by study after study. The  
18 answer was, you need a lot more parking in  
19 Wildwood, at the shore. I said is there a study  
20 backing up two parking spots per unit, and I never  
21 got a response. We did ask that question.

22 ASSEMBLYMAN RUMANA: The mission of  
23 the DEP to me would be completely contrary to that

24 position, where you're not going to try and  
25 enforce more impervious coverage. They've done

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1 exactly the opposite.

2 MR. PATTERSON: Our hotel will have  
3 less impervious coverage than was there before.  
4 There was 100 percent coverage.

5 ASSEMBLYMAN RUMANA: I'm saying, it  
6 doesn't make any sense to me, how DEP gets  
7 involved in the parking issues when the local  
8 jurisdiction is -- as a Planning Board Member and  
9 a mayor for years, I mean, I can tell you I've  
10 never had to deal with DEP on parking issues.  
11 Maybe at the shore it's a different story.

12 COMMISSIONER MARTIN: It is  
13 different because of the rules, but the bottom  
14 line is we'll look into this one.

15 MR. PATTERSON: What makes me most  
16 angry, I had a full head of air five years ago.

17 LIEUTENANT GOVERNOR GUADAGNO:  
18 Thank you for that, Mr. Patterson. I appreciate  
19 that, and hopefully this is exactly what the Red  
20 Tape Committee is supposed to do. One of the  
21 things we're looking at also is not only the first  
22 nine days, what do we do as a Red Tape Group going  
23 forward, and what I hear now is perhaps we should  
24 do this once a month or so to make sure these  
25 types of situations don't fall through the

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1 cracks.

2 COMMISSIONER MARTIN: No, thank  
3 you.

4 LIEUTENANT GOVERNOR GUADAGNO:  
5 Single out the DEP, you can send them in.

6 Thank you. Thank you, very much,  
7 Mr. Patterson.

8 COMMISSIONER MARTIN: I'm having  
9 fun.

10 LIEUTENANT GOVERNOR GUADAGNO:  
11 Okay. Jerry Casser on deck, so Mr. Casser, and  
12 then I had a suggestion about the sprinkler  
13 group. Go ahead. Sit down, Mr. Casser.

14 I'm not sure of -- Mr. Hutchison,  
15 are we going to have testimony from all of them?  
16 Have you agreed to have a couple spokes-people? I  
17 have 25 people on the sprinkler issue alone.

18 Okay. I'm just going to keep on  
19 going. We'll put the sprinkler people in order.

20 Okay, Mr. Casser.

21 MR. CASSER: Yes. Lieutenant  
22 Governor, Members of the Assembly, Senate and  
23 Commissioners, my name is Jerry Casser and I am  
24 General Counsel of the Greater New Jersey Motor  
25 Coach Association. I have with me up here Mark

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1 Waterhouse, who's Vice-President of our  
2 Association, and James Murphy, who is a member of  
3 our Board of Directors.

4 The Greater New Jersey Motor Coach  
5 Association is a regional association. Motor  
6 Coach operates and is organized to assist  
7 operators in New Jersey, New York, Connecticut,  
8 Pennsylvania, Maryland and Delaware who utilize  
9 the New Jersey roads, there's thousands of  
10 travelers to destinations in New Jersey. Through  
11 the efficiency of this administration reviewing  
12 existing rules and regulations, we believe that  
13 the State of New Jersey, rather than fostering  
14 safe and efficient use of mass transportation by  
15 bus and encouraging travel to Atlantic City, it's  
16 discouraging both in state and out of state bus  
17 operators from conducting business, and as a  
18 by-product, discouraging travel and tourism to  
19 Atlantic City.

20 Now, I have four talking points  
21 that I'd like to discuss at this time. Number  
22 one, in the position and administration of this  
23 corporation, business taxes appear for out of  
24 state bus and tour operators who travel to  
25 Atlantic City and other destinations, such as Cape

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1 May, Wildwood, Camden and Great Adventure. Under  
2 the circumstances, where the monies are derived  
3 out of state is a deterrent to travel from an out  
4 of state location to Atlantic City and these other  
5 locations that I have mentioned. Atlantic City is  
6 a destination, not an origin. It's important to  
7 the State of New Jersey and especially Atlantic  
8 City from an economic standpoint, especially in  
9 these trying economic times and should not be  
10 ignored. The state should be exempting out of  
11 state operators from corporation tax to encourage  
12 rather than discourage travel to New Jersey.

13 My second point is buses and bus  
14 drivers, they're frequently ticketed by the state,  
15 or actually, the South Jersey Transportation  
16 Authority for not following approved routes within  
17 Atlantic City. We, as an Association, have  
18 suggested the posting of signs which would set  
19 forth approved routes for buses which would assist  
20 drivers who are new to the area. When these  
21 tickets are issued it becomes necessary to appear  
22 in the Atlantic City Municipal Court, and the  
23 practice of an accompanying official, usually an  
24 officer of the out of state bus company, to appear  
25 in court for ticketed violations rather than

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1 simply pleading guilty and mailing in payment for

2 the penalty or allowing the local representative  
3 of the company or attorney to appear for the  
4 company to plead and pay the penalty furthers  
5 discouragement from doing business in Jersey.  
6 Frequently, these are people, bus companies, maybe  
7 Harrisburg, PA, Upstate New York, Connecticut,  
8 Delaware, maybe as far away as Virginia, and the  
9 Atlantic City Court, Municipal Court requires  
10 these people to appear. The corporation every bus  
11 could have is either corporation or limited  
12 liability company and an official of the company  
13 has to appear. I think you may, each of you may  
14 know, whether you've ever had a ticket in  
15 municipal court, had a friend or family member  
16 who's had a municipal court violation, there are  
17 many violations where you can simply sign the  
18 ticket, send it in with a check, plead guilty, and  
19 then there may be points involved. However, the  
20 way that everything works in the bus industry,  
21 especially Atlantic City, is that someone has to  
22 appear, and the excuse that we have gotten from  
23 the state, especially New Jersey Motor Vehicle  
24 Commission, the Department of Transportation, is  
25 that these violations do not appear on the fee

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1 schedule so someone must appear. Well, if you're  
2 traveling from a good distance away, you may  
3 actually have to stay overnight for the court



4 appearance, which means you have -- the session  
5 may go into the evening and the cost of hiring an  
6 attorney, you know, may double or triple the cost  
7 of the summons, but this is part of the highway  
8 cost of doing business in New Jersey, as compared  
9 to the cost of doing business in gaming states.  
10 Pennsylvania has gaming, Delaware has gaming,  
11 Connecticut has gaming, New York either has or  
12 will have gaming, and another part of the higher  
13 cost is a \$2.80 bus permit entry fee for each bus  
14 that enters into Atlantic City, and the daily  
15 parking fees of up to \$45 per bus. The South  
16 Jersey Transportation Authority has created a  
17 monopoly so that only one parking facility can  
18 exist, and in that case the facility can charge  
19 whatever they want to charge. For example, at the  
20 Native American hotel casinos where there's free  
21 parking and there's no entry fee, it's  
22 substantially cheaper for companies to do that,  
23 and so the bus companies do not go to Atlantic  
24 City and the casinos suffer. The casinos suffer.  
25 There are fewer tax dollars and this is a

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1 continuing effect.

2 The next point I'd like to mention  
3 are that the buses going to Atlantic City are  
4 subjected to harassment with inspections at the  
5 casino hotel rather than predetermined locations

6 where the inspections can begin more efficiently.  
7 Passengers are first charged at the hotel, the  
8 inspections are done right there, the buses are  
9 placed out of service and, and towed to a location  
10 where it appears to be done. The image after a  
11 bus being towed away from the hotel adversely  
12 affects the public's -- it creates the impression  
13 that buses are unsafe. The administrative  
14 handling of this aspect of the safety regulation  
15 creates a delay in repair and high expense of  
16 towing costs, because there's certain towing  
17 companies that are called and charge more than a  
18 bus company would and frequently result in the  
19 company having to send another bus to Atlantic  
20 City to pick up the passengers and hire a bus from  
21 a local operator. Frequently, the passengers have  
22 to wait around for the bus to arrive. The Greater  
23 New Jersey Motor Coach Association advocate of  
24 the -- conducts safety, sound and mechanical  
25 training for the bus drivers and, and mechanical

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1 staff on a regular basis. We have competition at  
2 issue. I taught at seminars. We have asked the  
3 State of New Jersey to conduct its inspections at  
4 the parking facility, which virtually all buses  
5 coming into Atlantic City are required to use,  
6 even out of state, where repair facilities do  
7 exist and do these untimely repairs.

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8 My final point is New Jersey  
9 Transit, New Jersey Transit receives substantial  
10 state substance to operate bus services in areas  
11 where the --  
12 LI EUTENANT GOVERNOR GUADAGNO: Mr.  
13 Casser, I'm going to interrupt you.  
14 MR. CASSER: Right.  
15 LI EUTENANT GOVERNOR GUADAGNO:  
16 You've given us a copy?  
17 MR. CASSER: Yes.  
18 LI EUTENANT GOVERNOR GUADAGNO: I'm  
19 going to apologize for interrupting you, but we're  
20 at seven minutes. I do want to tell you that I  
21 met with the South Jersey Transit Authority this  
22 morning. They don't want to be an enforcement  
23 business any more than you want them in the  
24 enforcement business, so you're, so you're saying  
25 the same thing. We're going to take a look at it,

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1 not through the Red Tape Review, but through the  
2 Department of Transportation, because I had the  
3 Commissioner with us when we met.  
4 Unless anybody has a specific  
5 question --  
6 MR. CASSER: If I may, Lieutenant  
7 Governor --  
8 LI EUTENANT GOVERNOR GUADAGNO:  
9 Yes.

10 MR. CASSER: -- just very briefly, I  
11 only have two sentences on this point.

12 LIEUTENANT GOVERNOR GUADAGNO: Go  
13 right ahead.

14 MR. CASSER: As I mentioned, New  
15 Jersey Transit gets very washed out state  
16 subsidies. There are private bus companies that  
17 are willing to provide the same service in many  
18 locations without subsidy. It's our belief that  
19 New Jersey Transit should put out a good bit of  
20 its services to the private companies to show that  
21 they're capable of providing that service.  
22 Privatization is important to the public, it's  
23 important in saving tax dollars and will provide  
24 additional business opportunities for the private  
25 entrepreneurs.

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1 LIEUTENANT GOVERNOR GUADAGNO:  
2 Thank you, very much, Mr. Casser. You know that  
3 the Governor has set up a task force on  
4 privatization, so may I recommend them to you,  
5 also? I will be sure to get this over to them.

6 Any questions? Thank you. Anybody  
7 else? Thank you, very much.

8 Let me try the sprinkler again.  
9 I'll try to do it efficiently. I understand, and  
10 correct me if I'm wrong, that Russell Fleming,  
11 Lisa Jones, Everett John Hoffman and Stanley

12 Sickels are all here and have agreed to testify  
13 together in the interest of cutting Red Tape, I  
14 invite you up to the panel right now. I think  
15 we're short a chair.

16 MR. FLEMING: Thank you, Lieutenant  
17 Governor, distinguished Panel Members. My name is  
18 Russ Fleming. I am a Professional Engineer who  
19 has worked in the field of fire protection and  
20 life safety for more than 30 years. I'm a fellow  
21 of the Society of Fire Protection Engineers and a  
22 past president of that organization, but I'm here  
23 today as the Executive Vice-President of the  
24 National Fire Sprinkler Association, a non-profit  
25 organization that promotes the use of fire

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1 sprinkler systems for the purpose of saving lives  
2 and reducing property damage. I'm here  
3 specifically to urge you against including a  
4 pending requirement for residential sprinklers  
5 within dwellings among the list of regulations  
6 being withheld from implementation, and I hope to  
7 convince you that this pending code change doesn't  
8 meet your Red Tape criteria but will actually work  
9 to stabilize property taxes and provide a higher  
10 degree of life safety to the citizens of this  
11 state.

12 To begin with, unlike many of the  
13 things you heard today, the residential sprinkler

14 requirement is not a unique regulation being  
15 forced upon the citizens of New Jersey, but  
16 rather, a change incorporated in the National  
17 Model Building Code and the International  
18 Residential Code, which I'll be referring to as  
19 the IRC. That code serves in the home-building in  
20 virtually every state in the nation. The  
21 requirement for sprinklers in all new dwellings  
22 beginning in January of 2011 was first adopted in  
23 the 2009 edition of the IRC. That model code is  
24 written by objective building code and fire  
25 officials from across the nation who voted to make

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1 that change at their annual conference in 2008.  
2 Those building and fire officials are aware of the  
3 benefits of fire sprinkler protection and the need  
4 to include sprinklers in homes to address the  
5 occupancy where 80 percent of our nation's 3,000  
6 annual fire deaths take place. On April 17, 2009  
7 the New Jersey Uniform Construction Advisory Board  
8 voted unanimously to adopt the 2009 IRC, affirming  
9 the support for the fire sprinkler requirement in  
10 new one and two-family dwellings as well as  
11 town-homes. In September, 2009 the regulation  
12 proposing the adoption of the 2009 IRC was placed  
13 in the New Jersey Register. Public comment was  
14 heard on the issue and public support for the  
15 regulation was overwhelming. In October of 2009,

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16 meanwhile, the residential fire sprinkler  
17 requirement was reaffirmed at the IRC hearings in  
18 Baltimore by overwhelming margins and the month  
19 after next, as the finishing touches are put on  
20 the 2012 edition of the IRC code, there will not  
21 be a challenge to the sprinkler requirement, so  
22 strong is the level of support.

23 Adoption of the current edition of  
24 a model building code should not be viewed as a  
25 burdensome regulation, but rather, staying

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1 up-to-date with current technology. New York  
2 State for many years wrote its own building code,  
3 and the result of bureaucratic, expensive and  
4 ultimately threatened to increase insurance rates  
5 for that state. Lieutenant Governor, you  
6 mentioned the need for common sense rule-making.  
7 Adoption of this regulation in the modeling code  
8 is common sense rule-making.

9 In the 1990's New York State was  
10 declared non business friendly because it wasn't  
11 using a national modeled code but chose to go its  
12 own way. The use of fire sprinklers in homes is a  
13 natural progress in trends that started in the  
14 1940's. With the gradual recognition of the life  
15 safety benefits, we've seen the state-of-the-art  
16 change as to require sprinklers in high-rise  
17 buildings, hospitals, nursing homes and other high

18 risk occupancies. Following the Seton Hall fire  
19 here in New Jersey, this state was a leader in  
20 requiring sprinklers in college dormitories.  
21 Today almost all new buildings this size are  
22 equipped with sprinkler systems.  
23 Fire sprinkler systems are simple  
24 in their operation. Water is maintained under  
25 pressure in a system of piping hidden in the

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1 ceiling. In the event of a fire, one or two  
2 sprinklers closest to the fire open in response to  
3 heat to control or extinguish the fire.  
4 It's perhaps understandable that  
5 some home-builders don't want to deal with  
6 anything new. They opposed smoke detectors when  
7 that technology first became available. Many  
8 home-builders across the country are recognizing  
9 that fire sprinklers are a proven life safety  
10 system that can be installed economically. Home  
11 fire sprinklers are not expensive, but they are  
12 effective. In a 2008 nation-wide study by the  
13 Fire Protection Research Foundation, in which the  
14 National Association of Home-Builders  
15 participated, and showed that the average cost of  
16 sprinkler protection for a new home was only \$1.61  
17 per square foot. Yet data from the National Fire  
18 Protection Association released just last month  
19 showed that where sprinklers are present, the fire



20 death rate in homes is reduced by 83 percent and  
 21 average property damage is reduced by 74 percent.  
 22 The cost of dwelling sprinklers can be offset by  
 23 more efficient land use and infrastructure savings  
 24 made possible by sprinklers. Sprinklers help  
 25 stabilize the cost of fire services, provide

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1 safety for responding fire-fighters, and the  
 2 insurance savings for homeowners go on and on.

3 In closing, I hope the Commission  
 4 will recognize that the pending residential  
 5 sprinkler requirement is not a burdensome new  
 6 regulation, but part of a national movement that  
 7 will protect the lives of the citizens in New  
 8 Jersey, protect fire-fighters, and provide a  
 9 long-term benefit in stabilizing the costs in  
 10 community fire protection.

11 Thank you.

12 LI EUTENANT GOVERNOR GUADAGNO:

13 Thank you.

14 MR. SICKELS: Lieutenant Governor,  
 15 Members of the Committee, I'm Stanley Sickels.  
 16 I've been a Fire Marshal for the Borough of Red  
 17 Bank for 30 years. Prior to that I was a Fire  
 18 Loss Investigator for insurance companies. As a  
 19 member of the fire service for 37 years, 36 of  
 20 those I've served as a Fire Service Instructor at  
 21 multi fire academies. I'm here as the President

22 of the New Jersey Fire Protection Association.  
23 Our association was established in 1962, to serve  
24 as a vice for the fire service in New Jersey with  
25 regard to code standards and public fire speaking

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1 education. We've been involved with codes, the  
2 development process throughout the years and, and  
3 our officers and members have served in various  
4 committees and commissions, including the initial  
5 Fire Safety Commission, Fire Safety Study  
6 Commission, as well as the adoption of the Uniform  
7 Construction Code Act and the Uniform Construction  
8 Code Regulations. I don't want to repeat a lot of  
9 comments that Mr. Fleming has set forth with  
10 regard to the value of fire sprinkler, with regard  
11 to saving lives --

12 LIUTENANT GOVERNOR GUADAGNO: I  
13 take it you adopt them.

14 MR. SICKELS: I think you can  
15 stipulate to the fact that everybody in this room,  
16 I think, will say fire safety or fire sprinklers  
17 save lives. The issue before us is that the  
18 Uniform Construction Code was established in New  
19 Jersey to do away with the archaic system, that  
20 every town has their own codes and requiring such  
21 things as masonry walls between dwelling units,  
22 which some still feel is an important thing, but  
23 to allow introduction to new technologies in the

24 code system, use of sheet rock walls and petitions  
25 negate the meaning to have masonry walls that used

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1 to extend through with all those other types of  
2 issues. I mean, the fact that we have indoor  
3 plumbing is an example of where the technology was  
4 brought into the code at some point, the  
5 convenience of the homeowner. What we have now is  
6 the technology for fire, saving people from the  
7 tragedy of a fire in the home. Majority of our  
8 fire deaths occur in the home. In New Jersey, in  
9 one of the fires in New Jersey, the report in  
10 2008, 83 civilians lost their lives in New  
11 Jersey. 44 of those deaths -- a larger portion of  
12 those deaths occurred when at home. In a  
13 comparison study that was done at Pittsburg  
14 County, Maryland, where they had a residential  
15 fire sprinkler ordinance, over a 15 year period  
16 there were 13,494 fires. 101 fire deaths and 324  
17 injuries in a single family town house. Fires  
18 that did not have fire suppression. During that  
19 same period there were no fire deaths in sprinkler  
20 occupancies of multi-family dwellings.

21 In New Jersey we had a system that  
22 was established and resulted in the Uniform  
23 Construction Code Act of 1975 that provided for a  
24 nonpartisan, non-political system of evaluating  
25 national codes for adoption here in New Jersey.

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1 We've established a Code Advisory Board that lists  
2 several specific codes for the various  
3 disciplines, plumbing, fire, etcetera. Those  
4 committees review the code, the national standards  
5 and those committees are required or -- and you  
6 might say diverging interests. Having served on  
7 the community since the mid 1980's, we have an  
8 industry, both construction industry, we have  
9 users or builders involved, we have trades people  
10 involved, designers and code officials. Through  
11 this system and through the Code Advisory Board,  
12 the various work of the various sub code  
13 committees, over the years we've reviewed the  
14 codes and recommended the adoption process codes  
15 for adoption by New Jersey. The 2009 IRC codes  
16 were so reviewed over a period of several years  
17 and committees recommended adoption of the IRC  
18 codes and the inclusion of the residential fire  
19 sprinkler requirement. However, they did modify  
20 that so that we had a residential sprinkler  
21 requirement, not to come into play until January,  
22 2012. That was in the agreement with  
23 representatives of the building association who  
24 served on that committee to allow time for  
25 everybody to hear about this code, for the

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1 designers and the builders to make sure this was a  
2 smooth transmission, and we're only talking about  
3 restructure. The codes already require fire  
4 suppression in existing buildings of residential  
5 uses, other than one or two-family homes. The  
6 multiple dwellings required sprinklers, hotels  
7 require sprinklers, boarding homes require  
8 sprinklers. This is the last residential  
9 component that we want to afford, a new  
10 requirement, this life saving requirement for new  
11 construction going forward. There's been a lot of  
12 talk about the cost of these sprinklers, I've also  
13 spoke with many Construction Officials. I've had  
14 building permits come in for bathroom renovations  
15 for \$19,000, I've seen countertops installed in  
16 kitchens for \$10,000, I've seen vacuum cleaners  
17 and sound systems and home entertainment systems  
18 that far exceed the cost of fire suppression  
19 during the initial construction of the building,  
20 so what we're talking about here is the life  
21 safety component, that there is no other system,  
22 there's no other technology in the present day  
23 that will give the same benefit than those fire  
24 sprinklers.

25 LI EUTENANT GOVERNOR GUADAGNO: Mr.

1 Sickels, can I just ask you one quick question?  
2 Did you say that this implementation was put off  
3 until 2012?

4 MR. SICKELS: The residential  
5 sprinkler is intended in the proposal to take  
6 effect January 1st, 2012.

7 LI EUTENANT GOVERNOR GUADAGNO: If  
8 we wait until April 18th, we're not -- it's not  
9 going to be in effect for another two years,  
10 anyway.

11 MR. SICKELS: Right.

12 LI EUTENANT GOVERNOR GUADAGNO:  
13 Okay. I want to be sure that we weren't  
14 paralleling anybody as we sit here today.

15 I can ask you another question. I  
16 know there's a lot of people on that issue, I'm  
17 happy to hear them all. How is a sprinkler system  
18 different than a fire alarm?

19 MR. SICKELS: A fire alarm or fire  
20 detection system detects fires.

21 LI EUTENANT GOVERNOR GUADAGNO:  
22 Right.

23 MR. SICKELS: One of the stats that  
24 I did not include in my proposal, in looking at  
25 fire in 2008, a lot of the residential occupancies

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1 where deaths occurred had fire detection systems,  
2 had fire smoke detectors. All that does is detect

3 the smoke given off by the fire. The sprinkler  
4 head itself is only between 135 to 165 degrees,  
5 depending on the head that's installed, and that  
6 head only activates when it, it heats to that  
7 temperature. It opens at that temperature and it  
8 starts to control the fire, if not extinguish the  
9 fire, so it's different in that it doesn't just  
10 detect, it actually takes action to try to contain  
11 the fire. The whole idea of a residential  
12 sprinkler system is not necessarily to save the  
13 building, it's a step down from the commercial  
14 system. It's designed to allow the occupants time  
15 to escape, to keep those conditions from getting  
16 to the point where the building flashes over.

17 One of the things with regard to  
18 the Code Advisory Board -- I'm sorry.

19 LIEUTENANT GOVERNOR GUADAGNO: I  
20 messed you up. I'm sorry. I apologize for that.

21 MR. SICKELS: -- is the fact that  
22 the system has worked for 35 years and really has  
23 been sort of an apron of the process where those  
24 in the business that live it every day, install,  
25 instruct or regulate every day are familiar with

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1 the process and procedures. The unique thing  
2 about this fire suppression is the IRC, it allows  
3 for an innovative system where it can be combined  
4 with both the domestic water system to make it

5 either more cost efficient, and we have  
6 stand-alone systems on the building. Less options  
7 would be combine the system. As I said, there's  
8 been some talk about cost. The quickest way to  
9 make this cost effective is to make it a  
10 requirement where now competition is going to say  
11 hey, it's a requirement, we all have to gear up.  
12 There will be many people out there providing it  
13 where right now it's a specialty, it's sort of  
14 unique thing, not a lot of contractors geared up  
15 for it because, oh, well, it's not a requirement.  
16 What they propose and what is nice about the IRC,  
17 if the department requires it, it does allow that  
18 option to combine the systems with the domestic  
19 sources.

20 The one point I'd also like to  
21 stress is the fire-fighters, because of this  
22 innovative technology and the fact of the approval  
23 now is for unique developments and construction,  
24 one of the things that's come about with home  
25 construction, the lightweight wood truss

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1 construction is very cost efficient, effective for  
2 the builder and environment, uses less wood, the  
3 pre-engineering trusses, they are designed but  
4 they are lightweight, they're very easy to install  
5 and it reduces the time of construction and the  
6 cost of the construction. That's a good thing for



7 the construction industry. It's a bad thing for  
8 fire-fighters, but what it does is protect the  
9 residents. Those things fail when they're --

10 LI EUTENANT GOVERNOR GUADAGNO: Mr.  
11 Sickels, I'm going to stop you there, because we  
12 are really, really over the time now, even with my  
13 interruption of you. I want to ask for your  
14 testimony. Do you have it with you?

15 MR. SICKELS: I've just passed it  
16 out.

17 LI EUTENANT GOVERNOR GUADAGNO: Do  
18 we have copies?

19 MR. SICKELS: Can I just make one  
20 statement --

21 LI EUTENANT GOVERNOR GUADAGNO:  
22 Absolutely.

23 MR. SICKELS: -- one closing  
24 statement?

25 I think that the adoption of this

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1 code, certainly the Executive Order itself tells  
2 you why there should be a document, because the  
3 Executive Order No. 1 says that provisions of such  
4 section one and two of this order shall not apply  
5 to any proposed administrative regulations,  
6 failure to adopt same will adversely affect the  
7 public safety and adversely --

8 LI EUTENANT GOVERNOR GUADAGNO: Mr.  
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9 Sickels, let me speak to that. I think that  
10 wasn't why we held it off til April 18th. The  
11 reason I asked you not until 2012 -- 2012, right?  
12 There's nothing to stop that from still happening  
13 after April 18th.

14 MR. SICKELS: I appreciate that.

15 LI EUTENANT GOVERNOR GUADAGNO:

16 Thank you.

17 MR. SICKELS: Thank you for that.

18 LI EUTENANT GOVERNOR GUADAGNO: Mrs.  
19 Jones?

20 COMMISSIONER GRIFFA: Lieutenant, I  
21 don't want to interrupt anybody, and I appreciate  
22 your time, but this exclusively falls within my  
23 department and you have my full attention on  
24 this. I'm exquisitely aware of the fire safety  
25 issue involved. I'm also aware of the change in

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1 the construction code. Your pictures are  
2 dramatic. I mean, I didn't need to see your  
3 pictures, but your pictures are dramatic evidence,  
4 so if we have your testimony, and unless, you  
5 know, I don't want to -- this is your hearing, but  
6 we have your testimony and --

7 LI EUTENANT GOVERNOR GUADAGNO: I  
8 think if Miss Jones wants to go forward,  
9 understanding that we hear you, then I think it's  
10 a Public Hearing and you have a right to go

11 forward, especially since you came from  
12 Livingston. I know Mr. Sickels is in my home  
13 County of Monmouth.

14 MS. JONES: Thank you, very much.

15 LI EUTENANT GOVERNOR GUADAGNO: I do  
16 ask everybody not to repeat themselves, because I  
17 have 10 other people that want to testify,  
18 apparently on the same issue. Go ahead.

19 MS. JONES: Good afternoon. My  
20 name is Lisa Jones and I'm a community outreach  
21 educator and I'm representing The Burn Center at  
22 St. Barnabus Medical Center in Livingston, which  
23 is New Jersey's only designated burn center.

24 Being the state's only burn care  
25 facility, we are exposed on a daily basis to the

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1 toll house fires take on the people of New Jersey,  
2 physically, emotionally and financially. As a  
3 society, we have made great strides over the past  
4 few decades in decreasing the number of injuries  
5 and deaths related to burns and fires. Through  
6 public education, we have increased awareness of  
7 burn and fire safety. Advances in technology,  
8 most notably the smoke alarm, have saved lives by  
9 alerting residents to a fire. Home sprinkler  
10 technology is the next step in this progression  
11 towards eradicating injury and death from house  
12 fires.

13                   The Burn Center at St. Barnabus  
14     primarily receives patients from the northern and  
15     central parts of the state and treats  
16     approximately 400 inpatients and 1,200 outpatients  
17     annually. A large portion of these injuries are  
18     from fires in the home, many which started small,  
19     often with a candle, a cigarette or a pot left on  
20     the stove, that could have been contained and  
21     extinguished easily, with minimal damage or  
22     injury, if a sprinkler system had been present.  
23     Instead, what typically occurs is that the fire  
24     goes unnoticed until it becomes a huge blaze,  
25     putting both life and property at risk.

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1                   Approximately 45 percent of  
2     admission to The Burn Center, as well as to burn  
3     centers around the country, are for burn injuries  
4     incurred as a result of home, residential home  
5     fires each year.  
6                   Care for a serious burn injury is  
7     intensive, prolonged, painful and expensive. The  
8     average cost for a day in a burn intensive care  
9     unit is \$8,000 and often requires multiple  
10    surgeries and other procedures, such as dialysis  
11    and ongoing intensive physical rehabilitation. It  
12    should also be noted that throughout the country,  
13    31 percent of burn patients each year are  
14    under-insured or uninsured, so the state incurs a

15 lot of those costs, and not only financially, but  
 16 the emotional toll is huge on burn patients.  
 17 Changes in appearance and mobility are  
 18 life-altering for both the survivor and their  
 19 family and friends and no dollar amount can be  
 20 ascribed to recover from such a traumatic injury.

21 We have seen the call for buildings  
 22 to be sprinklered after a tragedy, most notably  
 23 the fire at Seton Hall University in the freshmen  
 24 dorms 10 years ago. Legislation was put into  
 25 effect to protect the state's college students and

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1 now it is time to continue moving towards  
 2 protecting all of our state's citizens. Fire  
 3 sprinklers are the ultimate fire protection for  
 4 everyone, and are particularly useful in  
 5 protecting those individuals who may have  
 6 difficulty escaping from a home fire unaided,  
 7 infants, young children, older adults and, I mean,  
 8 people with disabilities, the highest fire risk  
 9 members of our society whose lives depend on  
 10 stopping the fire early in its development. Their  
 11 lives depend on fire sprinklers.

12 LI EUTENANT GOVERNOR GUADAGNO:

13 Thank you, very much.

14 Everett John Hoffman.

15 MR. HOFFMAN: Yes. Thank you, and  
 16 I will speak quickly.

17                   LIEUTENANT GOVERNOR GUADAGNO: The  
18 court reporter will love that.

19                   MR. HOFFMAN: I'm sure.

20                   LIEUTENANT GOVERNOR GUADAGNO:  
21 We're already making her work through her break,  
22 which I'm going to solve in just a minute.

23                   MR. HOFFMAN: Everett Hoffman, Fire  
24 Chief of Washington Township in Gloucester County,  
25 New Jersey. I've been Municipal Fire Chief for 16

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1 years. Immediate, past and present member of the  
2 Gloucester Chief Association and I'm a  
3 long-standing member of the Statistics and  
4 Information Advisory Council to the New Jersey  
5 Fire Safety Commission. Some of the data that I'm  
6 going to read off to you, and I know you have that  
7 before you, comes from both the -- from the  
8 National Fire Protection Association and from the  
9 Statistics and Information Advisory Council to the  
10 New Jersey Division of Fire Safety Board in 2008.

11                   77 percent of all structure fires  
12 in New Jersey occur in residential structures.  
13 That's nearly 34,000 of them in 2008. Twice as  
14 many fires occur in one and two-family dwellings  
15 than in multi-family dwellings. Fire-fighter  
16 injuries and line of duty deaths occur at  
17 structure fires 10 times more often than any other  
18 kind of fire department response. 54 percent of

19 all civilian fire fatalities occur in one and  
20 two-family dwellings. That number varies from  
21 time to time. This is 2008 data. 79 percent of  
22 all civilian fire injuries occur in building  
23 fires. Before the existence of lightweight  
24 construction, occupants and fire-fighters had  
25 perhaps 20 minutes or more during a hard burn

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1 before some type of structural collapse was  
2 imminent. With lightweight construction today,  
3 such as that found in gusset plate lightweight  
4 trusses and from laminated wood I beams, both of  
5 which prove to be very strong, and when not  
6 compromised present extreme collapse hazards  
7 within just three to four minutes of burn time.  
8 Laminated wood I beams are common place in new one  
9 and two-family dwellings being constructed today.  
10 Wood I beams are made of scrap wood particles and  
11 large amounts of glue and they burn extremely  
12 fast. Laminated wood I beams are used to support  
13 floors and other structural components whereas in  
14 years past, steel I beams or heavy timber beams  
15 were used in construction. Most fire departments  
16 arriving within four minutes to a house fire are  
17 arriving at a time when floors and roofs are at  
18 their collapse potential, making rescue nearly  
19 impossible and any kind of offensive fire attack  
20 extremely dangerous. In more than 100 years of

21 having sprinklered buildings in the United States,  
22 there's never been a multiple loss of life fire in  
23 a fully sprinklered building. Keeping pace with  
24 the resolution of the International Codes Council  
25 and maintaining the implementation of the

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1 residential fire sprinkler section within the IRC  
2 will do the following. It will reduce the loss of  
3 life and injuries of civilians as a result of  
4 fire. It will reduce the loss of life and  
5 injuries to experienced fire-fighters. It will  
6 minimize the amount of damage caused by fire in  
7 one and two-family dwellings, and yes, there will  
8 be a conservation of water with that effort as  
9 well. It will reduce the amount of emergency  
10 resources needed to handle what will amount to  
11 minor fires in newly constructed one and  
12 two-family dwellings. That's a great deal of  
13 impact on that, as well. We're all concerned  
14 about the resources that local fire departments  
15 have, whether it's manpower or the staffing of  
16 fire departments, especially for the career side,  
17 and the amount of equipment that we have to buy on  
18 the tax dollars. If we're able to put more effort  
19 towards presenting these things, it means less  
20 resources that we have to actually expend out  
21 there in dealing with actual emergencies, when  
22 they do occur.



23                   Okay.   Within my own jurisdiction a  
24   house fire occurred, it was a few years ago, the  
25   very day our region was laying to rest one of

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1   three fire-fighters killed in the line of duty  
2   when attempting to rescue three children. Our  
3   fire department arrived within three minutes of  
4   the incident from the dispatch and found a fire  
5   burning in one room of a 4,000 square foot home  
6   that was less than a year old. Two fire-fighters  
7   nearly lost their lives when the floor gave way in  
8   the main fire room. The floor was supported by  
9   wood laminated I beams. That's pictures one and  
10   two that you have in your packages. Within my own  
11   jurisdiction again, just a few years later, a  
12   relatively minor house fire in a newly constructed  
13   single family home resulted in the complete  
14   consumption of three laminated I beams, which  
15   wasn't discovered until after we did the fire  
16   investigation. Again, the fire department had  
17   arrived on location quickly and had water on the  
18   fire within five minutes of dispatch.

19                   I'm going to jump head on the  
20   bullets because --

21                   LIEUTENANT GOVERNOR GUADAGNO:  
22   You're out of time.

23                   MR. HOFFMAN: I'm going to sum it  
24   up.

25 Eight years ago in Washington

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1 Township, Gloucester County, a community that had  
2 already undergone extensive residential growth,  
3 going from a community of 27,000 in 1990 to 53,000  
4 today, I was successful in convincing our township  
5 officials to implement a residential sprinkler  
6 ordinance modeled after others in Arizona,  
7 Maryland and Virginia. Before the ordinance was  
8 able to have any impact on preventing large loss  
9 of fires in our own community, the DCA, and  
10 specifically the Division of Codes and Standards,  
11 launched a lawsuit against the township to request  
12 the construction industry prohibit such an  
13 ordinance. The division could have taken the  
14 position to allow the ordinance to take affect as  
15 they had with other issues, but instead took the  
16 position to prohibit the validity of the ordinance  
17 and was successful in their cause. Since then,  
18 more than a dozen major and minor developments  
19 with more than 100 single family homes, some as  
20 large as 6,000 square feet, have been constructed,  
21 all with lightweight construction and laminated I  
22 beams. I'm including the two examples I gave you  
23 here before.

24 LI EUTENANT GOVERNOR GUADAGNO:

25 Done?

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1 MR. HOFFMAN: I'm done.

2 LI EUTENANT GOVERNOR GUADAGNO:

3 Thank you, very much.

4 Anybody want to ask any other  
5 questions? All right. Thank you, very much. I  
6 appreciate you coming all the way up here,  
7 especially Gloucester.

8 MR. HOFFMAN: Thank you for giving  
9 us the time.

10 LI EUTENANT GOVERNOR GUADAGNO:

11 We're going to give the reporter five minutes.

12 (A brief recess was taken.)

13 LI EUTENANT GOVERNOR GUADAGNO: All  
14 right. We're ready to get started. I'm looking  
15 to change the subject a little bit.

16 Brenda Considine and Pat Kensel  
17 have agreed to speak together on Special  
18 Education. Pat, Bruce and Brenda, okay, ready to  
19 get started?

20 MS. CONSIDINE: We are ready.

21 Thank you, very, very much, on  
22 behalf of the New Jersey Coalition for Special  
23 Education Funding Reform, we want to thank you for  
24 this opportunity.

25 The coalition is comprised of major

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1 statewide organizations concerned with special  
2 education funding and policy. I'm joined today by  
3 two of our members, talking about some subject or  
4 some of the issues that we'll be following. My  
5 testimony before you is only going to touch on one  
6 key point. Our coalition has been around since  
7 1996 and we monitor issues affecting special  
8 education funding. We've said repeatedly it's not  
9 a matter of more money for special ed, it's a  
10 matter of smarter money for special ed. If you  
11 look at the amount of money that's being spent on  
12 special education and the way it's allocated, we  
13 think we could be doing a much better job.  
14 Special ed has been called kind of labyrinth of  
15 paperwork, and while some of the regulations are  
16 very necessary, some are truly red tape, and I'm  
17 going to talk about those today. Earlier on in  
18 one of those -- you talked about Executive Order  
19 No. 1. Sorry to say, we missed it by a couple of  
20 days. You would have had 200 more pages of  
21 regulations to hold off on. There's a piece of  
22 administrative code that was approved by the  
23 Department of Education two days before Christmas,  
24 as the Corzine Administration left office. It  
25 deals with implementation of the CORE bills and

1 establishes the Executive County Superintendent  
2 and gives responsibilities to that Executive  
3 County Superintendent for a number of things.  
4 Among them are special education matters. Last  
5 spring there were two public hearings, two  
6 Legislative hearings. We had scores of parents  
7 there, and through the regulatory process, there  
8 were literally thousands of letters in opposition  
9 to one particular piece of code. I'm going to  
10 describe that to you. It's Section 2.7 of the  
11 administrative code, N.J.A.C. 6A:23A, and it gives  
12 an Executive County Superintendent what we believe  
13 to be an inappropriate role in special education  
14 placement. Under the rules, the Executive County  
15 Superintendent has to be consulted whenever there  
16 is a school district that wants to place a student  
17 with special needs in an out of district program.  
18 Federal law is very clear. People that make these  
19 decisions, local IEP team, people that know the  
20 child and the parents, the parents are part of  
21 that team. There's nothing about an Executive  
22 County Superintendent in some office somewhere to  
23 review the process. The level of bureaucratic  
24 oversight is not required by state or federal law  
25 and more than 23,000 students in such out of

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1 district programs, public and private, we think  
2 the requirement is resource-consuming

3 administrative lag jam. The state goal of this  
4 effort is to help ensure that local districts are  
5 aware of the full range of placement and that they  
6 can place kids in the least restrictive setting.  
7 This is a goal that our coalition fully supports,  
8 but if the database of all of these options were  
9 simply made available to schools and parents, they  
10 can go on the computer, look up what's out there  
11 and make a decision without any more e-mails or  
12 paperwork or reviews or letters, any kind of  
13 further delay. Many school districts continue to  
14 operate under the impression that the County  
15 Office can still approve or disapprove placements,  
16 and as a mom of a child in the special education  
17 system, it just happened to me, and I had to pull  
18 out commissioner letters saying no, no, no, that's  
19 not what the code says. It's happening every day,  
20 that school districts are under the impression  
21 they have to get approval or disapproval from the  
22 County Office.

23 The second point that I want to  
24 make, I'm actually going to give my time to my  
25 colleagues, because my written comments are there,

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1 but I do want to underscore the importance of data  
2 being used to make policy decisions. New Jersey  
3 has never done a longitudinal study to look at the  
4 outcomes of kids in special ed, to look at what

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5 happens to them as adults. We don't know what  
6 factors make a difference in their lives, yet  
7 we're making policy decisions. We spend millions  
8 and millions of taxpayer dollars and we don't know  
9 what the variables are to make a difference in  
10 their lives. We've been arguing for a very long  
11 time that there needs to be a longitudinal study  
12 done, looking at these kids. We have been arguing  
13 since 1996 that there be a science based  
14 independent study looking at the true actual  
15 excess cost to taxpayers for special education  
16 funding. It comes from lots of different places  
17 and we really don't have good data that tells us  
18 what the actual costs are in different settings  
19 and what services and supports make a difference in  
20 the lives of these kids.

21 With that, I will pass the mike  
22 down to my colleagues.

23 LI EUTENANT GOVERNOR GUADAGNO:

24 Thank you, very much.

25 Okay, sir.

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1 MR. ETTINGER: I appreciate the  
2 opportunity to speak at this hearing and commend  
3 the Governor for instituting these hearings on  
4 ways administrative rule making can be revised to  
5 ensure more understandable, fair and transparent  
6 process that will also be more efficient and cost

7 savi ng.

8 I'm the Director of the Children's  
9 Institute. I've been the Director for 29 years.  
10 We're a school for children on the severe end of  
11 the autistic spectrum and with behavioral  
12 disabilities. We have a long and proud history.  
13 Our school started in the 1960's, one of the  
14 oldest schools in New Jersey for special education  
15 children.

16 Considering that our schools  
17 receive students and public funds from school  
18 districts, we're highly regulated, as we should  
19 be, by the State Board of Education. However, I'm  
20 really concerned by the lack of regulatory  
21 flexibility and that really hampers us in doing  
22 the job we should be doing. Many of the children  
23 come to our schools because in traditional schools  
24 they couldn't function, so we have to hire  
25 specialized staff with better approaches to help

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1 these children. There's many -- I'll just give  
2 examples of a couple of regulations in the  
3 business code that really make no sense, that  
4 really have to be looked at. We're sent a list of  
5 positions that we can hire and if we hire someone  
6 that doesn't have one of those titles, their  
7 salary will be disallowed. Now, I think it's  
8 really known that's a vital part of this



9 profession in working with autistic children is  
10 the behavior. Even the new insurance regulations  
11 that, that are coming out say you need a Board  
12 Certified BPC analyst. Now, that's not an  
13 acceptable title according to the State Board of  
14 Ed. I have to hire more of them, so I have to  
15 find someone, even if they're not as good with  
16 another certification that's acceptable or else it  
17 could be disallowed, and then when I call the  
18 state about it, they say, well, you can consider  
19 them teacher assistants but don't put down the job  
20 title of behaviorist, and when you charge them as  
21 the teacher assistant, that makes no sense. I  
22 need to get behaviorists, that's what's needed,  
23 and because of this regulation I have to worry  
24 about being disallowed. That's one example.

25 Another example is this regulation

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1 that if we hire a consulting speech therapist,  
2 we're only allowed to -- we have to do a  
3 computation on the maximum salary for language  
4 therapists and charge per rate and that comes to  
5 about \$70 or \$75 per hour. I'm sure you are aware  
6 that there's a severe shortage of language  
7 therapists in New Jersey. If I hire someone at a  
8 higher salary to get the IEP of the children, the  
9 rest will be disallowed, even though if you take  
10 away benefits, which I don't have to pay, it could

11 be, it could be a cost savings, but it's  
12 disallowed. I can go on and on with many  
13 regulations in the business code that are  
14 hampering us and just absolutely make no sense.

15 Another issue is that even though  
16 private schools are exempt from the No Child Left  
17 Behind requirement, having highly qualified  
18 teachers, New Jersey chooses to adopt it. I have  
19 a lot of severely autistic children, and even  
20 though their chronological age in high school  
21 subjects, they're cognitively operating on a lower  
22 grade level or have a lot of other issues, but I'm  
23 required, even if they're operating on the second  
24 or third grade, I have to hire certified middle  
25 school and high school teachers in every area,

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1 then to make it work I have to hire a whole array  
2 of special ed teachers as well, and then they're  
3 required to have all those academic subjects, even  
4 though they have a lot of other issues. I'll give  
5 you an example. I have one boy in my school now  
6 that spends time every day crawling on all four  
7 and roaring like a bear, resisting all kinds of  
8 work, but he has to take World Language and World  
9 History and Science.

10 LI EUTENANT GOVERNOR GUADAGNO: How  
11 is that working out for him?

12 MR. ETTINGER: Not too well.

13                                LIEUTENANT GOVERNOR GUADAGNO: This  
14 is not the first time that I --

15                                MR. ETTINGER: His mother came in  
16 to plead with the Board of Ed, my child's 16, if  
17 he resists all work and crawls on the floor and  
18 growls like a bear --

19                                LIEUTENANT GOVERNOR GUADAGNO: How  
20 horrible that a mother has to go to a public  
21 school Board of Education meeting and do that.  
22 I'm sorry. Personal opinion is coming out. I  
23 apologize.

24                                MR. ETTINGER: The child was not  
25 exempt. The child was not exempt because of No

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1 Child Left Behind. I can go on and on with  
2 examples like that. Again, these are arbitrary,  
3 but they're hurting special ed children.

4                                Another thing is there's a goal now  
5 that 10 percent of children should be brought back  
6 to district, 10 percent, so I have almost, like,  
7 parties from child study teams coming into our  
8 schools to look for children to bring back.  
9 Certainly, if the child's IEP should be met with  
10 public school, they should go back, but they're  
11 saying to me we're sorry, we have to bring some  
12 people back. I just want to give you an example  
13 of a child brought back two years ago. They  
14 brought back a child with autism and asperger's

15 syndrome. Originally he had obsessive compulsive  
16 disorder signs. Academically, he could do it. I  
17 pleaded with them, please don't bring him back,  
18 and the parents did as well. We need to work on  
19 social issues. He had no friends when he finished  
20 high school. He did well academically. He went  
21 to a college for a few months and then went  
22 through a nervous breakdown because of social  
23 anxiety. He's been home for a year. This  
24 arbitrary role of 10 percent is not in the best  
25 interest of the children. Certainly, if children

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1 can go back, they should go back but, you know,  
2 based on the needs of the child.

3 I'm especially concerned now with  
4 cutbacks that every district is making. That's,  
5 you know, if they had trouble providing me  
6 services for certain IEP's, it will certainly get  
7 worse in the future.

8 The other issue was mentioned by my  
9 colleague, Section 2.7, physical accountability  
10 given to the Executive County Superintendent, the  
11 power to review placement options. My  
12 understanding is the purpose of that was to  
13 suggest options and put the child back in these  
14 restrictive classes when necessary. That's not  
15 what's happening out there. What's happening is  
16 the Executive -- it's up to the Executive County

17 Superintendent to approve placement, not based on  
 18 the IEP with the Board, with the parents, with the  
 19 local district. Many cases they're saying we have  
 20 to bring the children back. I think it's going  
 21 against federal IDEA and being abusive for  
 22 children. I certainly applaud public schools and  
 23 would like a child to go back when necessary, but  
 24 the IEP, we have to meet the individual needs of  
 25 the children. I'm really concerned with these

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1 increasing inflexibility regulations being laid  
 2 out. They are going to hurt the children,  
 3 ultimately, like that child I told you about.  
 4 It's going to cost more money in the long run.  
 5 When a child can't function, they have a breakdown  
 6 as young adults. The children's needs aren't  
 7 being met.

8 LI EUTENANT GOVERNOR GUADAGNO:

9 Thank you, Mr. Ettinger. I appreciate that.  
 10 Thank you.

11 MS. KENSEL: Good evening. My name  
 12 is Pat Kensel. I am the Policy Director of the  
 13 Statewide Advocacy Network. I came to listen, so  
 14 I don't have written testimony. I'll submit  
 15 something to you guys later.

16 As Miss Considine said, we are a  
 17 member of the Special Ed Funding Coalition and do  
 18 share the same concerns as she spoke to. We

19 support and actively share in all of those same  
20 concerns, so as far as that goes, we're in  
21 complete agreement with that piece and the NCOB  
22 piece. Some of the inclusions, I'd probably go on  
23 a different road, and that's probably because of  
24 the places that do have those. The concerns that,  
25 that we support are the parent training

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1 information center under IDEA, so we do provide  
2 training, technical assistance and support for  
3 parents with students of disabilities throughout  
4 the state, and as I watched, as I'm watching some  
5 of the things that are happening around the state,  
6 I wasn't sure exactly which one of these panels we  
7 kind of belonged at.

LIEUTENANT GOVERNOR GUADAGNO:

8  
9 Well, you're here now.

10 MS. KENSEL: This is where, I  
11 guess, so as far as, I mean, I kind of wanted to  
12 be here to talk about the regulations and what  
13 these --

LIEUTENANT GOVERNOR GUADAGNO:

14  
15 Well, that's now.

16 MS. KENSEL: Okay. One of the  
17 things we're real active, of course, is IDEA and  
18 the last time it was re-authorized, because the  
19 statute just really is a federal protection, and  
20 each state has its own identity and shall we say

21 its own idiosyncrasy, I'll say it that way, so in  
22 New Jersey we have a lot of our own issues. Our  
23 588 school districts, we certainly have issues as  
24 far as segregation with streams of disabilities  
25 that we're still struggling with, which ways are

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1 the right ways to handle that, and when 75 parents  
2 and families come from all over the state to come  
3 and testify at State Board of Education meeting  
4 around some of the places where the regulations  
5 supercede the federal law, and I'll give you just  
6 a couple real quick examples.

7                   One is around transition planning.  
8 The feds moved it back to the age of 16. In New  
9 Jersey, we kept it at 14. 14 is a natural  
10 transition age for every kid. I mean, that's  
11 where typically developing kids are talking to  
12 guidance counselors about what their high school  
13 plans are and what their plans for adulthood are.  
14 There's a time frame for discipline reviews in the  
15 federal law. The feds moved it to 45 school  
16 days. We kept it at 45 calendar days, and rightly  
17 so. They figured the department and a lot of the  
18 parents that came out to advocate that nine weeks  
19 was entirely too long for a kid to be away from  
20 their educational program, especially in New  
21 Jersey because, quite frankly, the federal law  
22 calls it interim alternative educational setting.

23 Typically, in New Jersey it's home instruction for  
24 two hours a day. Nine weeks is way too long.  
25 This regulation requires parents receive reports

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1 and evaluations before they go into an IEP meeting  
2 or eligibility meeting. New Jersey says we think  
3 parents should get them 10 days before the meeting  
4 so parents aren't getting them handed to them  
5 right before they went in to the meeting. I don't  
6 know if you've ever been there and tried to read  
7 through five evaluations while five suits and  
8 jackets are watching you read them, you know, but  
9 that 10 days is a great regulation. All I'm  
10 trying to say is before we start throwing, what my  
11 grandmother used to say, the baby out with the  
12 bath water, I hope we'll have conversations around  
13 some of the Department of Ed things, some of the  
14 human issues and some of the families that are  
15 most vulnerable.

LIEUTENANT GOVERNOR GUADAGNO:

16  
17 There are 25,000 pages of rules and regulations  
18 that we're not considering right now. I can  
19 assure you that by April 18th we're not going to  
20 have that review. We're looking at the 800 that  
21 are frozen and going forward. This panel has to  
22 figure out what, if anything, to do with the other  
23 25,000. Everyone will be part of that.

MS. KENSEL: That's some of the



25 scary rhetoric that's down there. I mean, I try

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1 to be in Trenton as much as I can to represent our  
2 families, but I'm not one of the big movers and  
3 shakers so I have to ask the questions when I can  
4 ask the questions.

5 LI EUTENANT GOVERNOR GUADAGNO: Go  
6 right ahead. I'm in the Secretary of State's  
7 Office and I know, I know expectations are  
8 different, but the Executive Order says I  
9 freeze -- Chris Christie freezes all pending  
10 regulations. There were 800 pages at the time the  
11 Governor signed that order and we are to review,  
12 this panel is to review not only those 800  
13 regulations, but streamline the Government  
14 generally, when it comes to the operation of State  
15 Government. After that this committee will decide  
16 whether and how, if so, how to do the other 25,000  
17 pending regulations, so I assure you you will not  
18 see any action on that very -- not before the 18th  
19 of April, if that, and beyond. It's a lot of  
20 work.

21 MS. KENSEL: Well, please accept my  
22 assistance in any way we can help.

23 LI EUTENANT GOVERNOR GUADAGNO:

24 Thank you. Thank you.

25 If the fire-fighters want to add

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1 their names as having appeared on behalf of their  
2 respective constituents, and I don't want to say  
3 avoid testifying because that suggests you don't  
4 want to testify, but if you want to join that  
5 testimony and then be excused.

6 MR. MERALDO: Peter Meraldo,  
7 M-E-R-A-L-D-O, Essex County Fire Chief of the  
8 Essex County Fire Chief Association, from West  
9 Orange.

10 LI EUTENANT GOVERNOR GUADAGNO: He's  
11 joined in the prior testimony on the fire  
12 sprinklers and he wholeheartedly endorses them and  
13 wants to be on record. He's on record.

14 Also, Chief Michael Roberts of the  
15 New Jersey Fire Chief Association is going on  
16 record as endorsing wholeheartedly the testimony  
17 he's already heard by the panel in lieu of any  
18 additional testimony. I have Jack Watkins, Fire  
19 Official from the Township of West Caldwell, also  
20 joining in the panel's prior testimony  
21 wholeheartedly.

22 Is there any other fire official  
23 who would like to join that testimony as a matter  
24 of record? There, we go. See, we find a few  
25 more. You want to stand up and state your name?

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1 We will make the record reflect that you join  
2 wholeheartedly in the panel's fire testimony.

3 MR. BABCOCK: Craig Babcock, Fire  
4 Marshal, Rockaway Township.

5 LI EUTENANT GOVERNOR GUADAGNO:  
6 Craig Babcock, Fire Marshal, Rockaway Township.

7 MR. SILVIA: Richard Silvia,  
8 S-I-L-V-I-A, Fire Marshal in the Borough of Saddle  
9 River, Bergen County, New Jersey.

10 LI EUTENANT GOVERNOR GUADAGNO: Are  
11 you here, sir, on behalf of the New Jersey State  
12 Fire Prevention and Protection Association?

13 MR. SILVIA: Yes, I am. I am the  
14 Northern Vice-President of that Association.

15 LI EUTENANT GOVERNOR GUADAGNO:  
16 Okay. That's great. You're here, sir.

17 Mr. Babcock?

18 MR. BABCOCK: I'm the Secretary of  
19 the Association.

20 LI EUTENANT GOVERNOR GUADAGNO:  
21 Okay. We will reflect that you endorse the  
22 previous comments of the fire officials on the  
23 sprinklers. Is that all right?

24 MR. BABCOCK: Yes. Yes. Thank  
25 you, very much, Lieutenant Governor.

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1 LI EUTENANT GOVERNOR GUADAGNO:  
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2 Thank you.

3 Anybody else?

4 MR. HARDSTEIN: Lieutenant Paul

5 Hardstein, the Fire Marshal from Camden County.

6 LIEUTENANT GOVERNOR GUADAGNO: Paul

7 Hardstein, Fire Marshall from Camden County.

8 MR. HARDSTEIN: I also serve on the

9 New Jersey State Fire Commission.

10 LIEUTENANT GOVERNOR GUADAGNO:

11 Thank you.

12 MR. HARDSTEIN: I'd like to go on

13 record. There was a resolution passed and --

14 LIEUTENANT GOVERNOR GUADAGNO: Mr.

15 Hardstein, the idea was to simply endorse --

16 you're more than welcome to testify in a minute,

17 but you're going to have to wait. I hate the idea

18 of firemen standing around an office and waiting

19 to testify, but if you want to, please -- I don't

20 want to cut anybody off. I just wanted to --

21 MR. HARDSTEIN: We'll submit the

22 resolution.

23 LIEUTENANT GOVERNOR GUADAGNO: All

24 right. That's fine. The resolution is great.

25 Could you spell your last name?

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1 MR. HARDSTEIN: H-A-R-D-S-T-E-I-N.

2 LIEUTENANT GOVERNOR GUADAGNO:

3 Thank you.

178363 ASCII

4 Sir, in the back.

5 MR. MELOFCHIK: Deputy Robert

6 Melofchik, North Arlington Fire.

7 LIEUTENANT GOVERNOR GUADAGNO: Can

8 you spell that for us, please?

9 MR. MELOFCHIK: M-E-L-O-F-C-H-I-K.

10 I'm from the North Arlington Fire Department.

11 LIEUTENANT GOVERNOR GUADAGNO:

12 Okay. Anybody else?

13 In that case, Joel Moore from the

14 New Jersey Golf Course Association. Mr. Moore?

15 MR. MOORE: Thank you, Lieutenant

16 Governor and the Panel. I was asked to represent

17 the -- my name is Joel Moore. I am the

18 Vice-President of the New Jersey Golf Course

19 Owners Association and the President of the New

20 Jersey Golf Association. I'm also owner of a

21 private golf course in Ringoes, New Jersey called

22 the Ridge at Back Brook. I am the principal of an

23 accounting firm that specializes in taxes. I was

24 asked by the New Jersey Golf Course Owners

25 Association to come to the panel today and just

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1 bring to your attention some of the key issues

2 that are affecting the New Jersey Golf Industry.

3 One of them has to do with recently invoked sales

4 tax law and then some other issues with the DEP

5 regarding water and other issues. I'll briefly go

6 over them and then I will submit something in  
7 writing, because I wasn't aware of that paperwork,  
8 that you were able to do that.

9 Back in 2006 when the sales tax law  
10 was changed we were -- the New Jersey Golf Course  
11 Owners Association had several meetings with the  
12 Treasury Department to go over some of the  
13 proposed regulations, and we actually had several  
14 meetings with them. There was a proposed bill  
15 that was put on the floor and that language stated  
16 that there were three different types of issues  
17 that could affect the golf course industry. One  
18 was the New Jersey sales tax on annual dues that  
19 people pay at the golf course and then the issue  
20 of initiation fees or entry fees. We were, we  
21 were told that and we were actually given a  
22 proposed bill that stated that it was gonna' be  
23 either at the time that -- and they actually asked  
24 us to participate in the language. Off the record  
25 they asked us which would the New Jersey Golf

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1 Course Industry prefer, sales tax on annual dues  
2 or sales tax on entry fees. We went to the  
3 discussion and then when the bill finally came  
4 out -- I'm not going to waste a lot of time and  
5 make it dramatic. When the bill came out they  
6 taxed everything. One of the criteria that's  
7 really bothering us is when we sat down with the

8 Treasury --

9 LI EUTENANT GOVERNOR GUADAGNO:

10 Assemblyman Burzichelli just took complete  
11 responsibility. That's that. You're speaking to  
12 the right people, then.

13 MR. MOORE: I'm glad, because, you  
14 know, we were told the opposite. What really  
15 bothered us besides that was when we sat down and  
16 explained to Treasury that there are really two  
17 totally different types of entry fees, one is a  
18 refundable entry fee and one is non refundable and  
19 it means exactly what it says, the non refundable  
20 entry fees by the Internal Revenue Code are  
21 income, because it is not something that the club  
22 has to return, it's non refundable, it's ordinary  
23 income, and the year we see -- and to be quite  
24 honest, our position has been, since they passed  
25 the law, that's something to tax. When we

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1 explained that in the golf industry, that there  
2 are also refundable entry fees which get recorded  
3 as a liability on a business entity's balance  
4 sheet, it is not an income, it is not recognized  
5 as an income, and the Internal Revenue Code  
6 clearly states that liability can exist up to 30  
7 years and it must be returned at 30 years or  
8 less. Basically, every private golf course in the  
9 United States uses the 30 years, because that's

10 the maximum, but it is a liability that must be  
11 repaid and it's a liability on the balance sheet.  
12 When you explain that to Treasury, they have no  
13 response. They didn't understand. When we said  
14 it, you can't charge sales tax on an item that is  
15 not an income item, it's not a revenue item, it's  
16 not recognized, plus, it has to be returned, they  
17 just basically said, basically said they have the  
18 ability to tax anything they want. Then about a  
19 year ago Treasury started auditing golf, all golf  
20 clubs, and probably they've gone through a half  
21 dozen or so audits. There's been a large  
22 assessments to almost all those clubs, and I think  
23 every club but one has refused to pay. It has  
24 told them they are going to appeal it. One of the  
25 items is this non recognition of income. It's a

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1 liability and clearly, by tax law, I mean, it's  
2 not --

3 LIUTENANT GOVERNOR GUADAGNO: Mr.  
4 Moore, I hate to interrupt you, but we're going to  
5 need the citation and some back-up. That's not  
6 something this committee is going to end up  
7 dealing with right now.

8 MR. MOORE: I will provide that.

9 LIUTENANT GOVERNOR GUADAGNO:  
10 We'll hand it over to Treasury and take another  
11 look.



12 MR. MOORE: I'll provide all that  
13 information to you.

14 The other issues that's really,  
15 that's really affecting the golf industry in New  
16 Jersey, and just a few facts, you know, New Jersey  
17 golf courses pay over \$50 million in property  
18 taxes in New Jersey. We take care of over 50,000  
19 feet of open space at our expense and we're the  
20 second largest land owner industry in New Jersey.  
21 The largest as far as total -- not the total.  
22 They get significant relief. We don't get any  
23 relief from the property tax. We also employ  
24 about 50,000 employees in the State of New  
25 Jersey. The industry right now, like all

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1 industries, it's a tough time right now, and I'm  
2 one of the ones that went through the whole  
3 process because I built a course from scratch in  
4 2002. It took me two to three years to get my  
5 approvals, and at a considerable cost. Some of  
6 the cases with the DEP was the two year plus water  
7 allocation permit. One of the things that I  
8 really been trying to get someone to listen to and  
9 respond to, and I think it may have changed since  
10 I've gotten my application, but several years ago  
11 when I checked last there were two water  
12 authorities in New Jersey. When the golf course  
13 received the water allocation permit after the

14 public hearing and it was finalized, the last  
15 regulation that was put on those individuals that  
16 fall within those water authorities is that you  
17 must contract with the water authority and pay for  
18 your water, basically, and I think approximately  
19 only a third of New Jersey golf courses fall  
20 within those two water authorities. My  
21 percentages may be wrong now, but approximately  
22 two-thirds of the courses don't have to pay for  
23 the water. What bothers me more than anything,  
24 because I understand New Jersey has some economic  
25 issues, just like our industry does, but when I

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1 have tried to propose a conservation incentive,  
2 and what I mean by that, we are contracted for 45  
3 million gallons of water that we take out of the  
4 wells or we take it out of the street and when I  
5 have said to DEP and the New Jersey Water  
6 Authority that there needs to be incentive,  
7 because right now and in some years when it's a  
8 little wet, we may only use --

9 LIUTENANT GOVERNOR GUADAGNO: Mr.  
10 Moore, again, it's eight minutes, three minutes  
11 over, and I hate to interrupt you because you did  
12 sit here all afternoon and I do appreciate that  
13 you came out and how passionate you are, but we  
14 need a regulation that you're complaining about.  
15 I'm happy to have the committee look at it under

16 the common sense principles. This is not the  
17 first -- by the way, just to encourage you to do  
18 this, it's not the first time we've heard about  
19 some issues regarding conservation with watering  
20 golf courses.

21 MR. MOORE: What is the best way  
22 for me to submit it, in writing or contact you  
23 directly?

24 LI EUTENANT GOVERNOR GUADAGNO:  
25 Absolutely, put it in writing or give us a call.

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1 John Hutchison, I'm going to ask you to give Mr.  
2 Moore a call. I think the best way is writing,  
3 obviously, because then I'll have the code.

4 MR. MOORE: Can I just say  
5 something on one other item, and this is an item  
6 that when we were putting together our thoughts  
7 about trying to express our position on some  
8 relief with the sales tax, etcetera, we also feel  
9 strongly that there's some avenues and venues  
10 within the New Jersey golf industry that could  
11 generate revenues for the State of New Jersey, one  
12 of them being privatization of municipal  
13 government owned golf courses. There's not a  
14 municipal or government owned golf course in New  
15 Jersey, when you really look at the real budget,  
16 and we think that it's affecting our industry.  
17 The State of New Jersey, the municipalities,

18 counties, the State Government is not in business  
19 with -- you know, their expertise is not golf  
20 courses.

21 LI EUTENANT GOVERNOR GUADAGNO: I'm  
22 going to ask a member of my staff to be sure that  
23 that suggestion is referred to the privatization  
24 committee that the Governor has established.

25 MR. MOORE: Thank you all, very

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1 much.

2 LI EUTENANT GOVERNOR GUADAGNO:  
3 Thank you, very much. Mr. Moore, appreciate it.  
4 Sorry for cutting you off.

5 Mitch Weldin, and we're going to  
6 politely remind everybody, five minutes, even  
7 though I know you've been here all afternoon.

8 MR. WELDIN: Good evening. Thank  
9 you. I'm a little nervous. Never done anything  
10 like this before in my life. I'm just a small  
11 businessman contractor. I've run two companies,  
12 Leadex and Advanced Construction Methods. I've  
13 been on many jobs for the DCA, the Lead Abatement  
14 Program from 1997 to 2008 and performed the same  
15 services for Pennsylvania. I'm also an inspector  
16 and I teach lead asbestos, mold abatement and the  
17 new EPA RRP rule which goes into effect April 22nd  
18 of this year. All contractors working on houses  
19 or child occupied facilities are going to be

20 required to have this certification. It's held  
21 over everybody's head with about a \$37,000 fine  
22 for not complying with this rule. In  
23 Pennsylvania, I got started a little bit in  
24 Pennsylvania and I was allowed to work on sites  
25 with other non certified lead contractors. Under

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1 the new RRP rule you can go in, remove the lead  
2 painted components, clear the area and then you  
3 can allow other contractors to come in, do the  
4 work and do the demolition, have the contractor  
5 complete the insulation, then I come behind them,  
6 clean it, wipe it down, third party lead assessor,  
7 risk assessor comes in and dusts or wipes the  
8 samples. In New Jersey, when I tried the same  
9 thing I was targeted for bringing non licensed  
10 workers to the job site after the lead demo was  
11 complete and hazards had been removed and I just  
12 wondered why. I've always wondered why the rules  
13 had been written this way for lead paint abatement  
14 in the State of New Jersey.

15 The other thing is the -- for the  
16 workers in the State of New Jersey, it's a four  
17 day course in the State of New Jersey. It's a two  
18 day class in the State of Delaware, so a lot of  
19 guys go to Delaware, go through the process and,  
20 and come back to the State of New Jersey with a  
21 license. Well, when my brother came to stay with

22 me he was paralyzed from the chest down on the  
23 trip back from Delaware and still to this day  
24 confined to a wheelchair. All he does is count  
25 windows with aluminum. He really doesn't disturb

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1 lead paint because, because the way the rules are  
2 written, you have to have these licenses and stuff  
3 just to do your job. There are so many  
4 contractors out there today that just want to go  
5 out and do their work. They don't necessarily  
6 disturb the lead paint. The lead paint can be  
7 stabilized and then good contractors could be  
8 brought in, good trades, I mean, be brought in  
9 with some of the these lead abatement projects to  
10 do good quality work. The way it's turning out,  
11 now you have to hire somebody, they don't work  
12 out, you have to send them through the four day  
13 training again, getting back up to speed, put them  
14 out and find out he doesn't work out well either  
15 or his trade is not up to snuff, so the DCA has  
16 been faced with this lead abatement funding that  
17 comes down from Washington, DC and they dole it  
18 out to contractors. Some contractors have been  
19 lucky enough to get a good trades guy still trying  
20 to muddle around, trying to find a guy that does  
21 this and get him licensed. It's a very  
22 complicated issue. For all the contractors,  
23 several of us have been running out of business.

24 I closed both my businesses. After my brother's  
25 accident in 2007 my father was diagnosed with lung

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1 cancer and then my license was to expire, and it  
2 turns out that my agent had made a mistake with my  
3 insurance. It was -- instead of it being A rated  
4 or better insurance, it was A minus and she  
5 misread the paper. I had been carrying that  
6 insurance for six months and they fined me \$1,000  
7 a day for six months. I never had one issue with  
8 the insurance that even required a covering by the  
9 policy. They targeted me and they came after me.  
10 The best that they would do is a \$20,000 fine and  
11 a loss of license for six months. Because of  
12 that, then I had five or six other projects that I  
13 could not complete. I turned them over to other  
14 contractors. In the process with one that I was  
15 half way through, I tried to turn it over to  
16 another contractor. I called Carl Stech who  
17 worked with the DCA at the time. He told me  
18 everything to do. I went out to the job site,  
19 waiting for the others and here comes Jim Amiche  
20 from the DCA. He said why are you here, you're  
21 not working, you don't have a license, so now my  
22 hands are tied and my equipment is on the job  
23 site. I'm doing the best I can. I talked to your  
24 office, I tried to fix this and the best they  
25 would do, they came after me again, even after

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1 surrendering my license. They came after me  
2 again. They wanted a \$500 fine at the time. My  
3 father had passed away at that point and I was --  
4 I had enough of them.

5 LI EUTENANT GOVERNOR GUADAGNO: Mr.  
6 Weldin, let me tell you this, thank you for coming  
7 out here and sitting here all afternoon to tell  
8 your side of the story. It would be hard for me  
9 to believe you haven't testified because you're  
10 very clear, you're very coherent in your story and  
11 it's very compelling. In Executive Order No. 2  
12 you will see, and I have a copy for you, that the  
13 Governor has ordered us, as agency heads, to  
14 reasonably apply the enforcement rules going  
15 forward. I'm going to let the Commissioner of the  
16 DCA speak in just a second, but I am confident  
17 that what we're going to do is take another look  
18 and review it, and then we also following  
19 Executive Order No. 2 with respect to any fines.

20 MR. WELDIN: Thank you. Appreciate  
21 your time.

22 COMMISSIONER GRIFFA: I have your  
23 letter and it sounds like there's a bit of history  
24 that goes back much longer than my six week  
25 tenure, so I will get back to you. We have your



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1 contact information on the letter. I'll have  
2 somebody pull the file and give me complete  
3 explanation of what happened and we'll respond to  
4 you in writing.

5 Okay?

6 MR. WELDIN: Okay. To this day  
7 they're not allowing me to work as a project  
8 manager for a third party. Just to go out and  
9 project manage for other contractors, Veronica  
10 D'Alessandro shut that down because I knew too  
11 many contractors, something along those lines.

12 COMMISSIONER GRIFA: I saw that in  
13 your letter. It sounds strange.

14 MR. WELDIN: They keep coming after  
15 me and I don't know what to do at this point.

16 COMMISSIONER GRIFA: I'll look into  
17 it. We'll get back to you.

18 LIEUTENANT GOVERNOR GUADAGNO:  
19 Thank you, very much.

20 Dr. James Willet, I promised him a  
21 half an hour. Doctor, I see the Seton Hall with  
22 the seven colleges. You're not here with Dr.  
23 Laura Palmer?

24 DR. WILLET: She was here but she  
25 had to see some patients and had to leave, so I

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RED TAPE REVIEW GROUP

1 will --

2 LIEUTENANT GOVERNOR GUADAGNO:

3 Please invite her to submit testimony if it's not  
4 already here.

5 DR. WILLET: It's already there.

6 She had it distributed to all the members of the  
7 committee.

8 LIEUTENANT GOVERNOR GUADAGNO: I  
9 have a copy of her testimony, Dr. Laura Palmer  
10 from the Professional Counseling Programs.

11 DR. WILLET: Yes. Basically, I'm a  
12 psychologist and lawyer and also head of the  
13 counselling program at John J. College in New  
14 York. I'm representing seven colleges that have  
15 Master Degree Programs in Mental Health  
16 Counselling, or at least they did. One day they  
17 woke up last summer and found out that there was  
18 national accreditation or requirement that was  
19 voiced into these colleges by the Counselling  
20 Committee of Marriage and Family Board. This is  
21 the only state in the country that is giving up  
22 their entire accreditation process to this out of  
23 state unregulated body of accreditation called  
24 C-Cap, although we call it something else, and  
25 C-Cap is imposing their standards upon the seven

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1 colleges, preventing them from basically hiring

2 who they think is qualified, basically insisting  
3 that every one of these colleges get accredited by  
4 C-Cap, even though on their, on C-Cap's website it  
5 takes three to 10 years for a college to get  
6 accredited. These colleges are going to have to  
7 stop accepting their students to get revenues of  
8 \$9 million a year. Talking about an industry and  
9 a sensitivity towards revenue in these  
10 recessionary times, these colleges are heading to  
11 shut down their Mental Health Counseling programs  
12 at Seton Hall and other excellent colleges because  
13 of this outside regulatory board, and then this is  
14 the only state in the country now that requires  
15 that they dole out their licensure accreditation  
16 to this out of state body. In addition to all the  
17 licensing boards in the state, this is the only  
18 licensing board that requires -- except for, a  
19 little exception, one minor exception in certain  
20 types of social work, but this is the only  
21 licensing board that instead of doing the job and  
22 removing all of the Mental Health Counsellors to  
23 see whether they're qualified in New Jersey is  
24 doling it out to this unregulated organization  
25 somewhere out west, so as I say, there's \$9

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1 million a year and we feel that these reg -- we  
2 weren't even notified about these regulations, you  
3 know. The college professors don't spend their

4 spare time reading the New Jersey Register. The  
5 Governor said that he believes there should be  
6 common sense principles where you reach out to  
7 stakeholders, well, New Jersey Counseling  
8 Association was never notified of these  
9 regulations.

10 LI EUTENANT GOVERNOR GUADAGNO: When  
11 were these regulations passed down?

12 DR. WILLET: These regulations were  
13 passed last summer.

14 LI EUTENANT GOVERNOR GUADAGNO:  
15 Well, then, the Governor was not the Governor last  
16 summer, I assure you of that.

17 DR. WILLET: Yes. Well, I'm sure  
18 that if he were the Governor last summer this  
19 would have never happened, because it's an  
20 outrage.

21 LI EUTENANT GOVERNOR GUADAGNO: The  
22 Marriage and Family Board, what governmental  
23 agency is that? Is that the AG's office or --

24 DR. WILLET: That is the Division  
25 of Consumer Affairs, and there is a subcommittee,

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1 a counsellors committee which makes up counselling  
2 regulations and then they're approved or rubber  
3 stamped or whatever by the Marriage and Family  
4 Board. However, there are only three members at  
5 this time on the counselling committee, anyway.

6 You know, there haven't been new members appointed  
 7 for years, so these three counsellors are  
 8 basically shutting down an entire Mental Health  
 9 Counselling profession, half of the state  
 10 counselling programs are being shut down by these  
 11 guys and we feel it does not meet the task of  
 12 common sense, which is in the Governor's message.  
 13 It does not -- they never did any kind of cost  
 14 analysis to show the economic impact on the  
 15 state. The economic impact is not only among the  
 16 colleges here, these seven colleges that are going  
 17 to have to close their programs, all of the  
 18 students in the programs are affected and all the  
 19 students applying to the programs, hundreds of  
 20 them are affected. Now there's only a limited  
 21 number of programs that they're going to be able  
 22 to practice and this is going to push up the cost,  
 23 it's going to affect supply and demand, so there's  
 24 practically a little monopoly. Approved Mental  
 25 Health Counsellors are -- well, the rest of the

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1 programs are being shut down and the people, the  
 2 students, the professors and the graduates of  
 3 Seton Hall, of Caldwell, of Fairleigh Dickinson,  
 4 seven other colleges are not happy about this.  
 5 They feel that it's a slap in the face, that their  
 6 programs are being closed down because of this  
 7 outside body when they're provided quality

8 education and have never been challenged or  
9 questioned before. They had no reason to believe  
10 that suddenly they would be totally  
11 disenfranchised, so we are delighted that the  
12 Governor is looking into this. We wholeheartedly  
13 are in support of his Executive Order and the Red  
14 Tape Committee and we hope and we pray that the  
15 Red Tape Committee will look into this and do  
16 justice.

17 LI EUTENANT GOVERNOR GUADAGNO:

18 Thank you, very much, Doctor. We appreciate your  
19 time and we will be sure this gets sent over to  
20 the Division of Consumer Affairs. There's a  
21 specific question put to them about this rule, so  
22 thank you, Doctor.

23 DR. WILLET: Thank you, very much.

24 LI EUTENANT GOVERNOR GUADAGNO:

25 George Gallenthin and Cynthia Gallenthin. Now,

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1 for the record, you testified last time, so I'm  
2 expecting something different this time.

3 MR. GALLENTHIN: Yes, ma'am.

4 MRS. GALLENTHIN: Good evening,  
5 Lieutenant Governor and Panel, what's left of it,  
6 anyway. I know it's late. I'm Cynthia  
7 Gallenthin, Gallenthin Realty Developing of New  
8 Jersey and we have a house in Woodbridge, New  
9 Jersey.

10 MR. GALLENTHIN: Good evening. My  
 11 name is George Gallenthin. We run a real estate  
 12 development company and since our last meeting I  
 13 received a letter from NJDEP, Elizabeth Deitrich,  
 14 and it claims a wetlands delineation on a piece of  
 15 property, my property, and it's 4,000 feet from  
 16 one of the busier or busiest airports in the  
 17 United States, if not the world, Philadelphia  
 18 International Airport. It's between the --

19 LI EUTENANT GOVERNOR GUADAGNO: Mr.  
 20 Gallenthin, if that is the case, that is presently  
 21 pending before the DEP.

22 MR. GALLENTHIN: It's not pending.

23 LI EUTENANT GOVERNOR GUADAGNO:  
 24 Didn't you just say you got a letter?

25 MR. GALLENTHIN: Yes. It's a

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1 deci si on.

2 LI EUTENANT GOVERNOR GUADAGNO:

3 Okay. Go right ahead.

4 MR. GALLENTHIN: Thank you.

5 In other words, it's always a fait  
 6 accompli with NJDEP. No offense, Commissioners.

7 LI EUTENANT GOVERNOR GUADAGNO: No,  
 8 but I like the rhyme.

9 MR. GALLENTHIN: So we have an  
 10 international airport, we have runway lights  
 11 behind me, the airport in front of me. When are

12 the bird strikes gonna' start happening? Right  
13 next to my property, contiguous thereto is the  
14 South Jersey Army Core of Engineers. They applied  
15 for a wetlands application for mitigation for  
16 development of the property and that's -- and they  
17 were denied by the FAA, so under the common sense  
18 order, what's happening, am I going to have to  
19 spend another million plus dollars so that -- and  
20 the last one was the Gallenthin Realty versus  
21 Paulsboro Supreme Court. That one wound up with a  
22 decision in my company's favor. Now we're back in  
23 the same situation. What we're coming here for is  
24 to have NJDEP look at their wetlands delineation  
25 jurisdiction, their ability to draw a radius from

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1 airports within the state and exclude or exempt  
2 those properties based upon the FAA decision in  
3 that South Jersey case. Further, they started  
4 looking at railroads which -- that was also NJDEP  
5 in 2006 wherein a \$2.3 million fine was listed by  
6 a Federal Court in Newark, New Jersey. Basically,  
7 again, there's an exclusion and exemption to these  
8 rules, either out of common sense or out of  
9 federal jurisdiction and what it does is it winds  
10 up that we have legally dead capital, which you  
11 have these regulations that bar one from moving  
12 forward such as I heard one about five years, six  
13 years. It's more fully described in the book by



14 Hernando Di Soto called More Capital, by Basic  
15 Books, 2000, Hernando Di Soto. I'm sure everyone's  
16 aware he got revitalized, made \$85,000. I hope  
17 that never happens in New Jersey.

18 COMMISSIONER MARTIN: Can you give  
19 us some specifics? Can you send us a letter with  
20 the specifics that you mentioned?

21 MR. GALLENTIN: Absolutely. What  
22 we'd like to do, when I say mandate wetlands, this  
23 is the Core of Engineers prohibitive creek under  
24 Teddy Roosevelt.

25 COMMISSIONER MARTIN: I want to be

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1 very specific what you're asking us to do.

2 MR. GALLENTIN: Yes. This is  
3 man-made wetlands. In other words, the property  
4 before the straightening of the creek was upland,  
5 and I'll give these two to her.

6 COMMISSIONER MARTIN: That's fine.

7 MR. GALLENTIN: Write a letter to  
8 you?

9 COMMISSIONER MARTIN: Send it to  
10 me, that's fine.

11 LIEUTENANT GOVERNOR GUADAGNO:

12 Thank you, very much. Thank you.

13 Barbara DeMarco, you have been very  
14 patient, as well as everyone else in the room, and  
15 I do appreciate that.

16 Before we go any further, are there  
17 any other firemen who want to join in on the  
18 earlier panel discussion? All right. You got a  
19 second bight of that apple.

20 Okay. Go ahead.

21 MS. DeMARCO: Good evening. I'm  
22 here at the request of Greg Edwards. He said to  
23 speak with you, as a panel. We met with the  
24 Governor's Office last week on the issue of  
25 preschool. He also asked me to speak to the

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1 privatization panel and Congressman Zimmer.  
2 Essentially, I'm here today on  
3 behalf of the Education and Child Care  
4 Association. They represent the 3,400 department  
5 children and family licensed early care and  
6 education centers in the state. They are private  
7 providers of preschool. They employ 65,000  
8 people, majority woman, good part minority and  
9 generate more than \$2.5 million in economic  
10 impact. What is important to start with is that  
11 the department has a children and family standard  
12 for preschool predating what is currently the  
13 Department of Education standards, so you have two  
14 sets of regulations and standards that are  
15 completely different. You have those that are for  
16 the DCF, which is the majority of centers, 3,400,  
17 then you have DOE standards, which are much more

18 stringent and prevent the private preschoolers  
19 from participating in publicly funded preschool,  
20 essentially causing monopoly for the preschools  
21 offered by the public schools At a cost of \$700  
22 million to the taxpayers of New Jersey, and that  
23 does not include facilities. For instance,  
24 there's a facility that was just built in Perth  
25 Amboy, \$32 million when providers could have done

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1 it less for less than \$5 million to serve the same  
2 number of kids, so that has to be addressed.  
3 There are three issues,  
4 specifically. First is facilities. The DCF  
5 standards, again, which predate DOE, set a  
6 classroom size that is smaller than the DOE  
7 standards, so if the building predates DOE, the  
8 private provider cannot participate. The second  
9 issue is staff to child ratio. Right now  
10 three-year-olds have to be two for every nine, two  
11 for 18, one for each nine. Four-year-olds are one  
12 to ten or two for 20. DOE standards have it at  
13 two for 15. That's a five space difference.  
14 There is nothing that any academic can give you  
15 that has showed that 15 to two is the magic  
16 number, so again, another reason private providers  
17 can't participate. Finally, the profit margin.  
18 DOE only allows two percent profit margin, giving  
19 no incentive for an out of district to set up a

20 preschool, pay taxes and hire people when they  
 21 have to go to their investors to build the \$5  
 22 million facility with a two percent profit  
 23 margin. Our recommendation would be the DEO  
 24 standards really shouldn't be -- we should adopt  
 25 the DCF standards and let everyone comply to

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1 those. They're predated. There's no reason to  
 2 change that. Another issue that we've come into  
 3 contact with are the regulations and the law, P.L.  
 4 of 2004, Chapter 125, what this does is it allows  
 5 school districts and preschools -- what does that  
 6 mean, school districts are in the preschool  
 7 business. No longer is it just for kids who are  
 8 considered eligible for free or reduced lunch. No  
 9 longer is it for kids who might be -- no longer is  
 10 it for kids with disabilities under the age of  
 11 four. Now, if you can't fill that classroom of  
 12 15 -- and let's say you fill it with seven and  
 13 it's a mixture of kids with disabilities and kids  
 14 who are eligible for free or reduced lunch, you  
 15 can charge through a lottery system. The school  
 16 district who charges tuition must fill out the  
 17 rest of that classroom. The parents who choose to  
 18 go in the lottery can afford to pay for preschool,  
 19 but instead, because the tuition is subsidized,  
 20 I'm telling you, \$300 a month might provide --  
 21 cannot compete with \$300 a month, and if you put

22 in regulations stipulating they had to charge a  
23 market rate, it would even the playing field.  
24 Without doing that, there's no way my providers  
25 keep their kids, these kids in private centers,

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1 which is another discouraging thing and another  
2 thing that would keep them out of the business.  
3 I'm going to move over to the issue  
4 of how the public and private partnership works.  
5 Everything goes to the school district. If the  
6 superintendent elects to tell the community  
7 providers what's going on, and sometimes they  
8 don't elect, then the providers are kept  
9 completely out of the loop, because all of the  
10 information goes through the superintendent, so  
11 the preschool providers either have to be  
12 proactive to find out what's going on or they  
13 can't participate. That's even if the  
14 superintendent wants them to participate, because  
15 some do and some don't. There's 610 school  
16 districts, plus or minus, and, you know, that's  
17 how many different superintendents there are. If  
18 you live, for instance, let's say in Atlantic  
19 County, in Absecon, and you have Pleasantville,  
20 you have Atlantic City, Northfield and Linwood, if  
21 you're a provider in that area, you have to talk  
22 to the superintendent in each of those districts,  
23 and each one of them can implement it

24 differently. Each one of them can have a  
25 different time for kindergarten's start date, so

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1 as a provider, you have to put in a separate  
2 contract with everyone. There's no authority.  
3 Everything's left in the school district's hands,  
4 but again, it's at the discretion of the  
5 superintendent and the School Board. There's some  
6 other regulations that impact them, good many of  
7 them could be handled through better technology,  
8 and I've listed those for you in the testimony. I  
9 will tell you that there are -- the kindergarten  
10 cutoff date is a huge issue, because one class may  
11 start September 1st and one might start September  
12 30th, two separate school districts and the  
13 provider has to figure out how to accommodate  
14 both. It would be nice if they all started at the  
15 same time. The other issue has to deal with  
16 environmental standards that were put in place  
17 because of the problem in Gloucester County, where  
18 a child care center was cited in a thermometer  
19 factory and the kids had high levels of mercury  
20 that resulted in all 3,400 preschool programs had  
21 to get certification that they were  
22 environmentally clean. They have bound through  
23 that process. Actually, it has worked out well  
24 because we were able to get prerequisite that  
25 reimbursed the private providers the \$1,500 that

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1 it would cost them to do the study through the  
2 Hazardous Waste Discharge Fund, and this way the  
3 mom and pops and small centers who don't have a  
4 problem but have to have the testing were put out  
5 of -- weren't put into financial hardship. The  
6 problem is, there's another section to that, and  
7 that is the air quality standard. They were just  
8 implemented by the Department of Health and Senior  
9 Services. The fee just to put it out there is  
10 \$3,500, and for mom and pop centers, that could be  
11 something that would totally throw them under the  
12 truck, so I would say to you, although it was  
13 well-meaning and --

14 LI EUTENANT GOVERNOR GUADAGNO:

15 Unintended consequences.

16 MS. DeMARCO: You could really --  
17 another factor that would put these women owned  
18 businesses out of business, and to be honest with  
19 you, the state shouldn't be in the preschool  
20 business. They never should have been in the  
21 preschool business. You have to do it for the --  
22 everything above that, and there's the 700 million  
23 cost savings right off the top, no reason that you  
24 can't have a public and private partnership when  
25 you have to.

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1 LI EUTENANT GOVERNOR GUADAGNO:

2 Thank you, very much, Barbara. I appreciate your  
3 testimony and mostly appreciate you staying this  
4 long.

5 MS. DeMARCO: Not a problem.

6 LI EUTENANT GOVERNOR GUADAGNO: Hope  
7 you don't have that far to drive.

8 MS. DeMARCO: Hammonton, South  
9 Jersey.

10 LI EUTENANT GOVERNOR DeMARCO: Thank  
11 you, Barbara.

12 I do want to recognize the students  
13 in the back of the classroom. Get out of here  
14 before we get to say hello. You're seeing the  
15 system in action, as it may be. What's the name  
16 of your class?

17 UNIDENTIFIED SPEAKER: It's Urban  
18 Administration/Political Science. They're  
19 studying the state relationship with the municipal  
20 governments and how it all interacts.

21 LI EUTENANT GOVERNOR GUADAGNO:  
22 Thank you for joining us today. Thank you, very  
23 much. See you guys.

24 I have Mark Tandourjian.

25 MR. TANDOURJIAN: Hello. I'm Mark



1 Tandourjian. It's T-A-N-D-O-U-R-J-I-A-N. The  
 2 reason why I'm here, I'm a homeowner in  
 3 Moorestown, New Jersey. It's an issue regarding  
 4 the DEP. Commissioner Martin was recently made  
 5 aware of it. I just wondered, I guess this will  
 6 be the last -- basically, I'm speaking on behalf  
 7 of myself and our neighborhood, it's called The  
 8 Grande at Fellswood Drive in Moorestown, New  
 9 Jersey. Our issue refers to the DEP.

10 In November, 2008 the DEP issued  
 11 notice of violations for 17 out of 29 homes in the  
 12 development. The DEP maintains we destroy plants  
 13 by our house and we are growing and cutting grass  
 14 in the transition area of our homes. Most  
 15 transition areas start at only 25 to 30 feet  
 16 behind the back of our homes. All homeowners of  
 17 the neighborhood have spent tens of thousands of  
 18 dollars maintaining and caring for those  
 19 transition areas. In fact, all homes have had  
 20 grass, cut the grass since the first home was  
 21 built in 2004 in these transition areas. Then in  
 22 October, 2008, the DEP, without warning, issued  
 23 each homeowner, excuse me, letters of violation  
 24 claiming that each homeowner was in violation of  
 25 maintaining the respective transition area. In

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1 fact, all violations have, in fact, the same  
 2 written language, just noting the difference of  
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3 square footage for each home. The neighborhood  
4 representative met with the DEP in December, 2008,  
5 one month after the violations were issued to have  
6 open dialogue and to solve the issues. The DEP  
7 stated very clearly that there wasn't any room to  
8 negotiate, and they had added new wording to the  
9 definition of maintenance of the transition area,  
10 where homeowners could no longer grow grass or cut  
11 grass. All homes were purchased with the  
12 understanding and the wording in their deeds that  
13 clearly stated that the backyards can be  
14 maintained. The DEP has now changed the language,  
15 five years after the fact. DEP's actions have  
16 severely reduced the property values in our  
17 neighborhood. I've tried to sell my home since  
18 October, 2009. In fact, with two pending offers,  
19 one particular offer from a family in Pennsylvania  
20 but buyers are not waiting months or years for  
21 resolution from the DEP. We believe our home  
22 values have -- they've been reduced greatly from  
23 this DEP actions. The DEP actions are causing a  
24 great hardship, financial hardship and frozen the  
25 ability of many people in our neighborhood to sell

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1 their homes. The fellows who drive pay close to a  
2 \$1 million dollars in New Jersey real estate taxes  
3 and now the DEP issue will cause the property  
4 values to be much less and homeowners will fight

5 to reduce their tax cost with lower property  
6 values, thus lowering the amount of real estate  
7 taxes paid to the State of New Jersey. On  
8 average, the DEP has taken between 30 to 90 days  
9 to respond to our written requests that are  
10 supplied with detailed landscaped drawings and a  
11 description of what our solution was. Every time  
12 the letters have been rejected, and I believe that  
13 we submitted approximately five different  
14 submissions among the group. That's 11 to 17  
15 people that have done that. We need your help to  
16 resolve and get the DEP to use common sense for  
17 our homes and be able to use that small transition  
18 area. The average square footage of the grass  
19 we're talking about is under 7,000 square feet.  
20 It's less than a sixth of an acre. As of this  
21 past Friday our neighborhood was informed that all  
22 the violators, people that received this  
23 violation, that the DEP is going to issue an order  
24 within the next 20 days and that order will  
25 include fines and liens against our homes. Now,

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1 when my wife and I bought our home, Moorestown,  
2 New Jersey was rated number one in the country in  
3 Time Magazine, that's in July issue of 2005.  
4 That's why we bought there. Now, we bought it in  
5 2006. Four years later and we have severe issues  
6 with the DEP and I'm here today to speak for our

7 neighborhood and my home, that hopefully we can  
8 use this common sense in this regard and be able  
9 to maintain our transition area.

10 LI EUTENANT GOVERNOR GUADAGNO:

11 Commissioner Martin.

12 COMMISSIONER MARTIN: Lieutenant  
13 Governor, I was made aware of this just in the  
14 last couple days. We started looking into that.  
15 We're going to understand the issue and how it got  
16 to this point first, and then we'll go back to you  
17 and see where we can go in the future.

18 MR. TANDOURJIAN: I appreciate  
19 that. We have testimony from our --

20 LI EUTENANT GOVERNOR GUADAGNO: We  
21 have it right here, you and the five homeowners.

22 COMMISSIONER MARTIN: Okay. Got  
23 it.

24 MR. TANDOURJIAN: Thank you, very  
25 much, for your time.

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1 LI EUTENANT GOVERNOR GUADAGNO:

2 Thank you, very much, for coming out this evening.

3 Okay. I have three pink slips in  
4 front of me. I'm going to see who is here. Kevin  
5 McCabe? Jak or Jack Watkins? He left, okay. Bob  
6 McLoughlin?

7 Mr. McCabe, New Jersey Regional  
8 Counsel of Carpenters. Do I have to say last but

9 not least?

10 MR. McCABE: Thank you. First and  
11 foremost, I'm going to -- I have testimony to  
12 articulate but I will be submitting written  
13 testimony to follow-up.

14 LI EUTENANT GOVERNOR GUADAGNO:  
15 Thank you.

16 MR. McCABE: All right. Lieutenant  
17 Governor, Members of the Panel, my name is Kevin  
18 McCabe and I am Corporate Relations Director for  
19 New Jersey Regional Counsel of Carpenters. I'm  
20 here for 16,000 members and their family to  
21 discuss issues -- well, first I want to recognize  
22 the goals and objectives that this panel is trying  
23 to achieve, and it should be recognized for that.  
24 Secondly, I want to thank you for having these  
25 forums around the state and allowing the public to

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1 speak openly and candidly about the issues that  
2 pertain to them. From our point of view, what I'd  
3 like to do is articulate the issues and  
4 frustrations that we and our partners from the  
5 Wildwood Development Community who spoke earlier  
6 this evening have been encountering for the past  
7 few years. I'm not here to be repetitive or to  
8 restate what they have, because they've actually  
9 done a very good job of articulating the issues.  
10 From the carpenter point of view, I want to

11 augment what they were going through over the past  
12 several years. I think the Wildwood example can  
13 probably serve as a clear portrait or case study,  
14 if you will, of the inertia state government can  
15 be and the ramifications of that inertia, not just  
16 upon the envy that has a direct result, but there  
17 are implications and, in fact, throughout the  
18 entire community, whether or not that individual  
19 structure does or does not get done, and from our  
20 point of view, it has had a profound effect on us  
21 in that region. We've been a strong supporter of  
22 the local Wildwoods in our efforts to re-invent  
23 local economic landscaping by seeking creative and  
24 innovative ways to finally take advantage of the  
25 Wildwoods and by parlaying the potential of the

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1 Convention Center into a year-round destination  
2 for the larger participants and their families.  
3 Per the experts and the testimony you heard  
4 tonight from the leaders of the community, the  
5 optimum way to accomplish that Convention Center  
6 and surrounding area, however, as Miss Wildman  
7 alluded to over the past 10 years during the world  
8 of real estate level Wildwood lost over 5,000  
9 hotel rooms due to conversion of the  
10 condominiums. Recognizing this issue, the  
11 community sought to inquire and find various  
12 partners to work with and effectuate with Long

13 term efforts to redefine their economic strategy,  
14 the corporate being part of that work. Part of  
15 this is being bureaucratic wars of the Department  
16 of Environmental Protection. Indeed, our  
17 organization was aggressive, insisting on the  
18 forefront for the community to inquire, negotiate  
19 and successfully update the necessary language of  
20 the Master Plan. By doing so, the community was  
21 able to attract developers and an investment into  
22 the high rise hotel structures. You heard,  
23 therefore, the plan will be able to address their  
24 two issues. First, the longing capacity needed  
25 for the Convention Center and to redefine the

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1 economic dynamic, not only for Wildwood, but for  
2 the region. However, we have yet to see any  
3 results as of today. After many years of  
4 planning, the state, the developers and community  
5 can't find it to be attainable for those  
6 involved. About 18 months ago as developers were  
7 embarking upon the final stages of bureaucratic  
8 process to obtain prerequisites, they encountered  
9 that issue in the form of parking regulations that  
10 would pertain to the development. The department  
11 decided, as we heard tonight, that it was  
12 compelled to revise the standards set forth in the  
13 development. Therefore, going through the usual  
14 course of action for drafting reviews, commenting

15 and publishing regulations, it would, in fact,  
16 take another year by which the department will be  
17 able to promulgate those changes. We did, of  
18 course, work with the department through that  
19 process. As you heard earlier this evening, we  
20 were told that the deadline date was scheduled to  
21 be about January 20th, if not earlier, or  
22 February, right around the same time, regardless,  
23 and that brings us where we are today. The fact  
24 that through your efforts this rule is now within  
25 the purview of this panel, and secondly, that the

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1 notice for extension published by the DEP and  
2 opening comment periods and formal meetings for  
3 DEP proposals and rules under Executive Order No.  
4 1, this particular traffic rule was not included  
5 in that list and subsequent conversations that I  
6 had with DEP staff, they explained to me that,  
7 number one, we probably have to go through another  
8 year long process for this particular rule, and  
9 secondly, Commissioner, you alluded to this  
10 earlier, the fact that it may need capital, and I  
11 understand, I did explain they couldn't in that  
12 amount of time. The reality is the fact that  
13 beyond Trenton, the walls that are up, the walls  
14 of Trenton, that there is very real possibility  
15 that the investors, that Mr. Patterson was  
16 speaking to earlier may walk away from the deal.



17                   LIEUTENANT GOVERNOR GUADAGNO: I  
18    thought he was a little more -- it's more than  
19    walk away. He may not live long enough to see the  
20    deal.

21                   MR. McCABE: He was demonstrative,  
22    and rightfully so.

23                   COMMISSIONER MARTIN: It's a new  
24    day, absolutely, new day.

25                   MR. McCABE: I do want to say,

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1    because when they were leaving this evening they  
2    walked up to me and they asked for my assessment.  
3    I said the fact that it's being recognized by both  
4    Lieutenant Governor and yourself, Commissioner,  
5    and both said that you would inquire and follow up  
6    on the particular issue, so to hear that, you  
7    could only take hope from that. I think that's  
8    the underlying issue of what you're trying to  
9    achieve for this, so I believe their three hour  
10   trip home put a little pep in their step, if you  
11   will, and they feel like they actually did receive  
12   the benefit of coming up here, an encouragement of  
13   the response that you put forward. Just to be  
14   clear why I'm here, it's not just because of the  
15   partners with regards to what they're trying to  
16   get accomplished in Wildwood with the development,  
17   but from the organization point of view, we do  
18   think often, especially since the meltdown in the

19 recession, we've been working with both the  
20 private and public sector and the non profit and  
21 utilizing the assets of the organization to try to  
22 get shovels in the ground, capital infrastructure  
23 moving and to get people working again. However,  
24 for our organization, even more basic fundamental  
25 than that, it is about identifying work and

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1 man-hours.  
2                   That being said, we are willing to  
3 work with those who are willing to invest their  
4 money and resources to develop in New Jersey and  
5 spur New Jersey's economy by putting our members  
6 to work. We recognize the potential for the  
7 ability of this region years ago and we committed  
8 with them that we would worked with them to  
9 redefine community service, the economic engine  
10 with the multiplier of the fact that may ripple  
11 throughout that part of state, the most important  
12 multiplier effect for jobs. Once again, it was  
13 very encouraging to hear from both the Lieutenant  
14 Governor and Commissioner with regard to the fact  
15 that you will be following up, however, what's  
16 important to recognize is this particular issue,  
17 notwithstanding it is important from the  
18 Governor's Office and to the Commissioner, that  
19 the DEP themselves really need to be an agent for  
20 economics and advancement and not an impediment,

21 which is the frustration.

22 LI EUTENANT GOVERNOR GUADAGNO: We  
23 should not hear about this at an open public  
24 hearing. That's the problem I'm struggling with.  
25 I shouldn't hear and you shouldn't hear about

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1 problems in our own Government, and it is our  
2 Government.

3 MR. McCABE: Yeah, it is our  
4 Government.

5 LI EUTENANT GOVERNOR GUADAGNO: At a  
6 public hearing, no. I mean, it's now Governor  
7 Christie's problem, and what we're going to  
8 struggle with, you can talk about the individual  
9 case in Wildwood, certainly, I'm sure that will  
10 get resolved, but my big problem now is how do we  
11 avoid having to have these meetings -- not that I  
12 mind staying in Montclair until 8:00 at night, but  
13 to solve your problem, you have a problem like  
14 this, you shouldn't have to come to Montclair to  
15 get an answer. That's the issue for this  
16 Commission. The issue about Wildwood is Bob  
17 Martin's problem and I'm sure he'll take care of  
18 it. I'm struggling with how we fix the problem  
19 with the agency, the government, the bureaucracy  
20 as a whole. That's something we're all going to  
21 talk about between now and next week, probably.  
22 April 18th is coming upon us.

23 MR. McCABE: It's a mind-set.  
24 LI EUTENANT GOVERNOR GUADAGNO: It's  
25 a mind-set. MVC changed the mind-set. If you

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1 talk to people at the Department of Motor  
2 Vehicles, now Motor Vehicles Commission, they  
3 changed the mind-set, so it can be done. Our goal  
4 here is to make it happen somehow, and if you have  
5 any idea, I don't want to stop you here. You have  
6 Bob Martin, so take him while you can. Our  
7 problem is to how to fix the mind-set, you're  
8 right.

9 COMMISSIONER MARTIN: We have a  
10 major culture change, so that has to change,  
11 number one. We have regulatory changes, we have  
12 to change how we make things move quicker within  
13 DEP, so culturally is my biggest issue that I'm  
14 going after, and I'm going to work on that very  
15 hard. Thank you for the information.

16 MR. McCABE: Happy to follow up,  
17 and having served in the capacity at the  
18 Department of Labor and having to change -- and  
19 the capacity there, it is a rock, but ultimately  
20 that rock will stay at the top of the hill if you  
21 have the wherewithal.

22 LI EUTENANT GOVERNOR GUADAGNO:  
23 Thank you for your time. I'm sorry. Did I cut  
24 you off?

25 MR. McCABE: No. I would cut me

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1 off, too. I just think it's important to note  
2 that right now we're experiencing 33 percent  
3 unemployment with the carpenters alone, so, you  
4 know, what's frustrating, that's the word you  
5 heard from both developers and you hear from the  
6 community and us, but the word is frustrating, but  
7 here today I can sincerely say that I am  
8 encouraged and I thank you for the feedback that  
9 you have given us in our particular issue, but  
10 certainly sitting here, both in Monmouth a couple  
11 weeks ago and here today, I think you've done a  
12 great show.

13 LI EUTENANT GOVERNOR GUADAGNO:

14 We're working on it.

15 Is there anyone else in the room  
16 right now who would like to speak? Thank you,  
17 very much. Having finished all of the testimony,  
18 the pink slips, is there anyone who wants to add  
19 anything?

20 Then our tradition has been to  
21 close the public portion of this meeting and end  
22 the night first hearing from the majority and then  
23 over here, sorry, and then hearing from the  
24 minority party.

25 Mr. Burzichelli.

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1 ASSEMBLYMAN BURZICHELLI: Thank  
2 you, Lieutenant Governor. Thank you, very much.  
3 We've completed three public hearings and if I may  
4 say, you've handled all of them with a great deal  
5 of professionalism. Also, I think many people  
6 have felt comfortable speaking to you, therefore,  
7 leading this committee you've taken a wealth of  
8 information and now, of course, more details to  
9 follow, but doing this report is going to be  
10 critical. I think this report will need to pay  
11 immediate dividends for a very long time to come,  
12 if we just get it right.

13 LI EUTENANT GOVERNOR GUADAGNO: Can  
14 I ask another question before we get started? Why  
15 are only the assemblymen here? Why are the  
16 senators gone? The senators are gone and the  
17 assemblymen are here because the assembly is the  
18 house of the people. Got myself in big trouble.

19 ASSEMBLYMAN RUMANA: Assemblyman  
20 Burzichelli hit it right on the head, I think you,  
21 Lieutenant Governor, have done an absolutely  
22 outstanding -- serious, you have handled every  
23 hearing with class and professionalism. It's been  
24 a real pleasure, because I've gotten to know you a  
25 lot more, obviously, spending all these hours

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1 together through this process but, you know, for  
2 everybody that didn't have the benefit of  
3 participating, every hearing has been exactly the  
4 same. I think that certainly our Lieutenant  
5 Governor has shown great commitment to the cause  
6 that we are all here for, which is to make sure  
7 that we're going to make New Jersey a better  
8 state, certainly a better functioning state as a  
9 result of weeding out regulations that are clearly  
10 not necessary and certainly amending those that  
11 need amending to make this state a better place  
12 for all of us to live, to work and have a much  
13 better quality of life.

14 LIUTENANT GOVERNOR GUADAGNO:

15 Thank you, Assemblymen. DEP Commissioner is  
16 always here, Bob Martin stays to the very end.

17 Also, I want to thank everyone for  
18 sticking it out. Thank you. I'm going to end the  
19 meeting with the promise of a report, draft report  
20 sometime in the next couple weeks for the  
21 committee itself, with the report to be filed with  
22 the Governor by April 18. I'm sure, absolutely  
23 positive that report will be issued not only with  
24 the press release, but online it will be available  
25 to everyone.

1 178363 ASCII  
2 Thank you, very much, everybody.  
3 Good night.  
4 (At 8:00 p.m., proceedings were  
5 concluded.)  
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1 CERTIFICATION  
2  
3 I, MICHELLE GRUENDEL, CCR, do  
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4 hereby certify that the foregoing transcript of  
5 the said public hearing is a true and correct  
6 transcript of the testimony given by the said  
7 witness at the time and place specified  
8 hereinbefore.

9 I FURTHER CERTIFY that I am not a  
10 relative or employee or attorney or counsel of any  
11 of the parties, nor a relative or employee of such  
12 attorney or counsel, or financially interested  
13 directly or indirectly in this action.

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19 MICHELLE GRUENDEL, CCR  
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